



CITY OF ANTIGO

FINANCE, PERSONNEL, AND LEGISLATIVE COMMITTEE MEETING

MULTI-PURPOSE ROOM

Wednesday, November 16, 2016

CITY HALL

6:00 PM

Call to Order

Discussion and Action May Occur on Any of the Following Agenda Items:

1. Approval of the Minutes from the October 19, 2016 meeting
2. Carry Over Vacation for Deputy Clerk-Treasurer
3. Policy for Personal Property Tax Minimum Value for Tax Bill
4. Offering Telehealth on Health Insurance
5. Cash Receipts Import for Utility Billing Quote for Electronically Entering Payments
6. 2016 Carry Forwards to 2017
7. 2016 Budget Transfers/Amendments for Approval
8. Approval to update the Tree and Shrub Ordinance Article IV
9. Request to fill vacancy within the DPW - Streets/Transportation/Water/Sewer division
10. Approve the updated #1 Grader Operator Job Description
11. 2017 Exempt and Non-Represented Employee Wage Increase Recommendation
12. Recommended January 1, 2017 thru December 31, 2019 Labor Agreement between the City of Antigo and the Firefighter's Union
13. Recommended January 1, 2017 thru December 31, 2019 Labor Agreement between the City of Antigo and the Police Officer's Union
14. Statewide Structural Collapse Contract

Any Other Matters Authorized by Law to be Considered

Adjournment

Upon reasonable notice, efforts will be made to accommodate disabled individuals through appropriate aids and services. For additional information, contact Jaime Horswill, 700 Edison Street, Antigo, Wisconsin 54409. (715) 623-3633 extension 100. Members of and possibly a quorum of members of other governmental bodies may be in attendance to gather information. Any governmental body other than that specifically referred to above will take no action.

DATE MAILED: November 10, 2016

BILL BRANDT



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: Carry Over Vacation for Deputy Clerk-Treasurer

As you know, these past few months have been very busy in the Clerk-Treasurer's Office with the Presidential Election. Along with that, I have had health issues recently that are still ongoing. Because of this, there is a possibility that the Deputy Clerk-Treasurer will not be able to use all of the vacation time that she has accrued before her January 5th anniversary date. She has had days scheduled but has been rearranging her schedule to meet the needs of the office (for which I am very appreciative of).

Therefore, I am requesting that she be allowed to carry over up to 40 hours of vacation time to be used within 90 days of her anniversary date. Although she may not need to carry over that much time, I do not want her to lose any time if she needs to cancel any other days.

If you have any questions, please do not hesitate to contact me. If approved, a resolution will need to be forwarded to Council. I appreciate your consideration of this request.



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: Policy for Personal Property Tax Minimum Value for Tax Bill

When reviewing the list of businesses that receive a personal property tax bills, we have determined there is no consistency to who receives this bill. There are some home-based businesses that receive bills and others that do not. This brought up a question of who should be receiving this reporting form and who should not be. Staff's thinking is that everyone that we can determine has a business should receive the personal property form to complete with the value of the personal property. However because some of the businesses have such a small amount of value, it would not be cost effective to send a tax bill if the amount to be collected is minimal.

With this thought in mind, staff felt there should be a minimum threshold for the value of the personal property for a business to receive a tax bill. For example, if the personal property value was \$400 the tax bill would be about \$10. For a value of \$1,000, the bill would be about \$25.

We are looking for direction from the committee as to what the minimum threshold should be for the personal property. A resolution will need to be forwarded to Council for any decision that is made.



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: Offering Telehealth on Health Insurance

One additional item that has not been discussed for the health insurance renewal for January 1, 2017, is offering Telehealth services to the employees. Telehealth is a service where a telephone number is provided that the employee/dependents can call for certain minor medical issues and avoid having to go to the doctor, walk-in, or emergency room. The cost to the City for providing this service is \$1 per employee per month or approximately \$948 per year.

The charge per telephone visit would be \$45. This would be applied to the employee's deductible/co-insurance until the maximum out of pocket limit is met. WPS used our claims from January 1, 2016 to July 15, 2016 to determine what the potential savings to the City's health insurance plan would have been if the telehealth was offered. Based on that information, the potential savings is \$8,097.

According to the WPS website, the types of conditions that can be treated are:

What conditions can a Teladoc physician treat? The on-call doctors can treat a variety of minor medical conditions, including:			
• Allergies	• Diarrhea	• Rashes	• Sprains and strains (minor joint trauma)
• Arthritic pain	• Infections	• Respiratory infections	• Sports injuries
• Asthma	• Insect bites	• Sinusitis	• Urinary tract infections (UTI)
• Bronchitis	• Pharyngitis	• Skin inflammations or cellulitis	• Vomiting
• Colds and flu	• "Pink eye" or conjunctivitis	• Sore throats	• And more!

I did talk to a few employees about this service and if they thought they would use it. The response was positive so I would like to offer this as an option for a year to see what the actual usage is. We can then evaluate if there is a savings that makes up the \$948 cost per year.

If this is approved, a resolution will need to be forwarded to Council. If you have any questions, please feel free to contact me.



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: Cash Receipts Import for Utility Billing Quote for Electronically Entering Payments

The Council had previously approved offering the ability to view and pay utility bills online and to receive bills by e-mail for the past several months. Part of this process was to have the payments be updated in our billing software electronically so there would not have to be any manual receipt entering for these payments. Staff has been working on getting this process in place for the last several months. We have been waiting for the cost to upgrade our current Springbrook/Accela software to allow this to happen. We finally received the quote today to change the software to allow this and it is attached. The one-time charges for this process are \$3,300 and the implementation costs are \$1,600 for a total of \$4,900. In addition to this there is an annual maintenance cost of \$726.

The option to not have these payments electronically entered into the system would be to manually enter the payments each day to update the system. At the meeting on Wednesday, we will have further information as to the cost effectiveness of the electronic versus the manual entering of payments in order to give you more information.

If you have any questions before Wednesday, please feel free to give me a call.

Antigo, WI- Cash Receipt Import

Antigo, WI

Proposed By:

Dennis Kane
dkane@accela.com
(857) 504-6052

Proposal Date:

November 10, 2016

Proposal Expiration Date:

February 8, 2017

Proposed Products and Services

License

SKU Code	Product Name	Description	Qty	Sales Price	Total Price
LC80CF&ACRI0001	Cash Receipts Import	Cash Receipts Import	1	USD 3,300.0000	USD 3,300.00
License Total:					USD 3,300.00

Maintenance

SKU Code	Product Name	Description	Qty	Sales Price	Total Price
MI80CF&ACRI0001	Cash Receipts Import Maintenance & Support	Cash Receipts Import Maintenance & Support	1	USD 726.0000	USD 726.00
Maintenance Total:					USD 726.00

Service

SKU Code	Product Name	Description	Qty	Sales Price	Total Price
SV80F&AT02TM001	Services Tier 2 Finance & Admin	Professional Services Tier 2 Finance & Administration product implementation	10.00	USD 160.0000	USD 1,600.00
Service Total:					USD 1,600.00

Grand Total **USD 5,626.00**

Attachment: Antigo WI- Cash Receipt Import (1243 : Utility Online Payments)

Product Breakdown and Financial Roll-Up

Recurring Costs

Product Type	Total	Payment Terms
Maintenance	USD 726.00	100% due on contract signing, annually thereafter

Non-Recurring Costs

Product Type	Total	Payment Terms
License	USD 3,300.00	100% due on contract signing
Service	USD 1,600.00	Monthly as incurred

Products and Services Detailed Descriptions

Product Name and Details
Cash Receipts Import
Cash Receipts Import
Services Tier 2 Finance & Admin
Professional Services Tier 2 Finance & Administration product implementation

Estimated 4-Year Cost of Ownership

This table is an illustrative example of the costs being proposed modeled over a 4-Year period highlighting one-time and recurring charges. Maintenance may increase annually.

Recurrence	Year 1	Year 2	Year 3	Year 4
Non-Recurring	USD 4,900.00			
Recurring	USD 726.00	USD 726.00	USD 726.00	USD 726.00

Additional Information

Definitions

Masters: static information and data, based on a single individual or entity. An example of a Master file is Customer, Employee or Vendor contact information.

History: Information that is updated or added on a regular basis that is tied to a Master File. An example of History includes Checks, Billings or Receipts.

Client Requirements

Client must perform all data extraction from their legacy system and populate then current Standard Templates. Standard Templates and field listings are available for review by client upon request.

Client must validate the accuracy of data. Data in legacy system which is incorrect or does not balance will need to be altered by Client, or incorrect results will be carried through to new system.

Client must provide data according to the schedule mutually agreed upon with Project Manager, or project may incur changes to schedule or additional fees. Client must provide field descriptions and/or definitions for data that is being extracted from the legacy system.

Client is responsible for travel costs in accordance with Vendor's customer travel policy.

Vendor Requirements

Vendor will provide the base for the Accela Finance & Administration application. The base for the Finance & Administration application includes System Setup, General Ledger Shell, Cash Receipts Shell, and Clearing House. The base is included in all purchases.

Vendor will evaluate data provided from client to ensure that all required fields have been populated, that the formats provided meet the necessary criteria, and the limitations of field ranges.

Vendor will provide consulting services to assist client in analyzing whether data inputs meet criteria specified, and assist in testing to validate inputs are converted correctly to the Vendor System.

Vendor will provide a secure method for electronic data transmission.

Vendor will ensure that all data provided in finalized templates are converted correctly into the corresponding fields or tables within the applications.

Once Client has offered final approval of data sets, Vendor will provide three (3) data conversions into the Live UB System and one (1) data conversion into the Live system for all other Applicable as specified on table above.

Limitations of Conversions Services

Unless otherwise specified and agreed to, Vendor will not consult on or assist in the removal of data from Client legacy system.

Vendor cannot convert data from a legacy system which is not available in a corresponding field.

Vendor cannot convert data into fields which exceed the maximum database field limitations.

The services listed above do not include consulting or data manipulation for the purpose of supplying the Client with information the Client didn't previously have access to.

Data requested to be converted after agreed to live conversion will be considered out of scope, and will require a change order, and be subject to additional fees.

All current templates and field listings are available on the Vendor website, and included herein by reference.



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: 2016 Carry Forwards to 2017

Every year funds are budgeted that need to be carried forward to the next budget cycle for various reasons such as: we are budgeting over several years for something or the planned purchase or project will not be completed in 2016 or not paid for until 2017. The department managers are contacted and a list is compiled of the expected carry forwards that are needed.

I have placed this item on the agenda so that it can be acted on. However because of the work load this past month, I was late getting the request to the department managers so I will not have everything compiled until Tuesday. I will have the list e-mailed to you prior to the meeting so that you have a chance to review it.

If you approve this list, a resolution will need to be forwarded to Council. I apologize for not getting the list to you with this agenda.



To: Mayor and City Council
From: Kaye Matucheski, Clerk/Treasurer
Date: November 16, 2016
Re: 2016 Budget Transfers/Amendments for Approval

As with the carry forwards, there are budget transfers/adjustments that need to be made for situations that occur during the year that were not known at budget time. Again I was late in getting this information out to department managers so I will have a list of what needs approval sent to you by e-mail on Tuesday to give you a chance to review the items. I apologize that the information was not sent out with the agenda.



To: Mayor and City Council
From: Sarah Repp, Parks, Recreation, and Cemetery Supervisor
Date: November 16, 2016
Re: Approval to update the Tree and Shrub Ordinance Article IV

<Insert Ordinance Formal Body>

ARTICLE IV. - TREES AND SHRUBS

Sec. 34-106. - Adoption of state statutes.

Wis. Stats. §§ 27.09 and 86.03 are adopted and incorporated in this article by reference.

(Code 1999, § 6-4-13)

Sec. 34-107. - Statement of policy and applicability.

- (a) Intent and purpose. It is the policy of the city to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the city to:
 - (1) Eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas;
 - (2) Promote and enhance the beauty and general welfare of the city;
 - (3) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and
 - (4) Guard all trees and shrubs, both public and private, within the city against the spread of disease, insects or pests.
- (b) Applicability. This article shall apply to trees and shrubs growing or planted after the effective date of the ordinance from which this section is derived in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.
- (c) Powers of council. The common council is empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the city.

(Code 1999, § 6-4-1)

Sec. 34-108. - Definitions.

Whenever the following words or terms are used in this article, they shall be construed to have the following meanings:

Boulevard areas and terrace areas mean the land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, the area four feet from the curblin shall be deemed to be a boulevard for the purpose of this article. The term "boulevard" shall have the same meaning as the term "terrace." Where there are no sidewalks, the area seven feet from the curb shall be deemed boulevard areas under this article.

Curb means an enclosing frame, border or edging; a raised edge or margin to strengthen or confine.

Evergreen tree means any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

Forester means the person designated by the common council as authorized to carry out this article as the community resources director or designee.

Major alteration means trimming a tree beyond necessary trimming to comply with this article.

Public areas includes all public parks and other lands owned, controlled or leased by the city, except the terrace areas.

Public nuisance means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; is infected with a plant disease; is infested with injurious insects or pests; is injurious to public improvements; or endangers the life, health, safety or welfare of persons or property.

Public trees and shrubs means all trees and shrubs located or to be planted in or upon public areas.

Shrubs means any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

Tree means any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to heights of 16 feet or more.

(Code 1999, § 6-4-2)

Cross reference— Definitions generally, § 1-2.

Sec. 34-109. - Designation of city forester; authority of city forester to enter private premises.

- (a) The common council may designate a municipal employee or citizen to perform the duties of city forester under Wis. Stats. § 27.09 and may authorize such forester to perform the duties and exercise the powers imposed on the common council by this article.
- (b) The city forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the sections of this article. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Wis. Stats. § 66.0119.

(Code 1999, § 6-4-3)

Sec. 34-110. - Interference with city forester prohibited.

No person shall interfere with the city forester and his/her authorized representative while they are engaged in carrying out any work or activities authorized by this article.

(Code 1999, § 6-4-4)

Sec. 34-111. - Abatement of tree disease nuisances.

- (a) Tree diseases declared public nuisance. The common council has determined that there are many trees growing on public and private premises within the city, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the city, and that the health and life of such trees is threatened by fatal diseases. The common council declares its intention to control and prevent the spread of such diseases and the insect pests and vectors which carry such diseases and specifically declares such diseases to be public nuisances.
- (b) Definitions. As used in this section, unless otherwise clearly indicated by the context:
Public nuisance means:
 - (1) Any deleterious or fatal tree disease.

- (2) Any tree or part thereof which, by reason of its condition and location, is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the terrace strip between curb and lot lines.
- (3) Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.

Public property means owned or controlled by the city, including without limitation because of enumeration public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and the terrace strip between the lot line and the curb or improved portion of any public way.

(c) Inspection. Inspection shall be conducted as follows:

- (1) The city forester shall inspect or cause to be inspected all premises and places within the city to determine whether any public nuisance exists thereon.
- (2) Whenever necessary to determine the existence of disease in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens for analysis to determine the presence of such nuisances.
- (3) The city forester or his/her agents shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.

(d) Abatement of nuisances. The duty of the city forester in the abatement of nuisances is as follows:

- (1) The city forester shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry such diseases.
- (2) Whenever the city forester after inspection or examination shall determine that a public nuisance exists on public property in the city, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry such disease.
- (3) a. When the city forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve or cause to be served personally or by certified mail upon the owner of such property, if he/she can be found, or upon the occupant thereof a written notice of the existence of such nuisance and of a time and place for a hearing before the city forester, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement and shall further state that, unless the owner shall abate the nuisance in the manner specified in the notice or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the city, the city forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the city.
- b. If, after the hearing held pursuant to subsection (d)(3)a of this section, it shall be determined by the common council that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed within five days after such hearing, the city forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this section. The city forester may extend the time allowed the property owner for abatement work, but not to exceed ten additional days.

(e) Spraying. Spraying shall be in accordance with the following:

- (1) Whenever the common council, upon the recommendation of the city forester, shall determine that any tree or part thereof is infected with a deleterious or fatal tree disease or is in a weakened condition or harbors elm bark beetles, the city forester may cause all trees within a

1,000-foot radius to be sprayed with an effective disease-destroying concentrate or other insecticide.

- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this section, the forester shall cause to be given advance public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least 24 hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the forester shall also notify the chief of police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary no parking notices shall be posted in each block of any affected street at least 24 hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary no parking notices have been given and posted in accordance with subsection (e)(2) of this section, the city shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the forester shall notify the owner of such property and proceed to accordance with the requirements of subsection (d)(3) of this section.

(Code 1999, § 6-4-5)

Sec. 34-112. - Assessment of costs of abatement.

- (a) The entire costs of abating any public nuisance or spraying trees shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located on or the parcel or lot upon which such tree stands in accordance with Wis. Stats. § 66.0627. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the city.
- (b) The cost of abating a public nuisance, when done at the direction and under the supervision of the forester, shall be assessed to the property to which such nuisance, tree or wood is located as follows:
 - (1) The forester shall keep a strict account of the costs of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the common council on or before October 15 of each year.
 - (2) Upon receiving the forester's report, the council shall hold a public hearing on such proposed charges, giving at least 14 days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the city and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against premises and the work for which such charge is being made.
 - (3) After such hearing, the common council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.
 - (4) The clerk-treasurer shall mail notice of the amount of such final assessment to each owner of property assessed at his/her last known address stating that, unless paid within 30 days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.

- (5) The city declares that, in making assessments under this section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood part thereof.

(Code 1999, § 6-4-6)

Sec. 34-113. - Planting of trees and shrubs.

- (a) Purpose. The common council states its determination that the planting, care and protection of the trees within the city are desirable for the purpose of beauty, shade, comfort, noise abatement and economic betterment and encourages all persons to assist in a program of tree planting, care and protection.
- (b) Tree planting program. The park, recreation and cemetery director shall recommend to the common council, with approval from the city forester, a program for tree planting, care and protection for public parks. The common council shall also encourage the planting, care and protection of trees and shrubs on private premises within the city.
- (c) Tree types. The size and genus, species and variety of trees and shrubs to be planted in terraces, tree banks and boulevards and the manner of planting shall be submitted to the city forester for approval before commencement of such work. The city forester shall prepare and maintain lists of tree species desirable for planting according to their normal mature height as follows:
 - (1) Large trees: over 40 feet;
 - (2) Medium trees: 25 to 40 feet; and
 - (3) Small trees: 15 to 25 feet.
- (d) Planting size. Planting size shall be as follows:
 - (1) All large or medium trees, when planted, shall be at least eight feet high and shall have a minimum trunk diameter of 1½ inches at a point six inches above the ground.
 - (2) All small trees, when planted, shall be least five feet high and shall have five or more branches.
- (e) Location. Location shall be as follows:
 - (1) There shall be a minimum distance of 16 feet and a recommended distance of 25 to 50 feet between terrace area trees depending upon the size of trees and other factors. Terrace trees shall be planted an equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In terrace areas less than five feet wide, planting will not be permitted. Terrace area trees shall be a minimum of 25 feet from an intersection or alley.
 - (2) Small sized trees shall be planted at least five feet from driveways and large or medium sized trees shall be planted at least 15 feet from driveways. Trees shall also be planted at least 15 feet from curb box/water shutoffs and underground utilities.
 - (3) Evergreen trees or shrubs shall not be planted in a terrace area.
 - (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight inches in height above the top of the nearest curb.
 - (5) No tree grates will be allowed around any tree in the terrace.
- (f) Minimum opening to be maintained. Unless otherwise provided for in a written permit from the city forester, there must be at least nine square feet of open ground about the base of each tree three inches in diameter one foot above the ground, and for each two inches of increase in such diameter there must be an increase of at least one square foot of open ground around each such tree.

- (g) Permitted species. Only trees approved by the city forester shall be planted in a public terrace strip (between curb and sidewalk).
- (h) Certain species restricted. No person shall plant within the city any female tree of the species *Populus deltoides*, commonly called the cottonwood, or any tree commonly called the seed-bearing box elder (*Acer negundo*), which may become infested with box elder bugs, and such trees are declared a nuisance. Any person having any such trees on his/her premises shall cause the trees to be removed.
- (i) Unlawfully planted trees. Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the city forester may be removed. The city forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs; ordering their removal; and establishing a reasonable time within which such removal shall be accomplished. If removal is not accomplished within the time specified, the city may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (j) Frames. Without the approval of the city forester, any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may not, for the purpose of protecting such tree or shrub, surround the tree or shrub with a suitable box or frame for protection. Borders must be installed around the planters downtown and will be maintained by the city or designated representative. The city forester will inform the city of any repairs needed.

(Code 1999, § 6-4-7; Ord. No. 1217B, §§ 1, 2, 9-8-2010)

Sec. 34-114. - Trimming.

- (a) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public area shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than 14 feet. The city forester may waive this subsection for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety.
- (b) The necessity of the pruning may be determined by the city forester.
- (c) Clearance from sidewalk to lower branches shall not be less than ten feet. All trees standing upon private property in the city, the branches of which extend over the line of the street, shall be trimmed so that no branch shall grow or hang over the line of the sidewalk lower than ten feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp. The city forester may waive this subsection for newly planted and existing trees if he/she determines that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety.
- (d) Trimming or pruning of more than two-thirds of the crown of a public area tree shall be considered to be a major alteration and shall require a permit from the city forester.

(Code 1999, § 6-4-8)

Sec. 34-115. - Trees and shrubbery obstructing view at intersection or view of traffic signs.

- (a) Notwithstanding any other section of this article, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the city any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any

traffic sign or driveway approach to a street in the city. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.

- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel, and the city forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten days of receipt of notice, to take such necessary steps, the city forester and/or common council shall order city employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the city forester as specified to subsection (c) of this section shall, upon conviction thereof, be subject to a forfeiture as established in section 1-14.

(Code 1999, § 6-4-9)

Sec. 34-116. - Removal of trees and stumps.

- (a) Dangerous, obstructive and infected trees. Any tree or part thereof, whether alive or dead, which the city forester shall find to be infected, hazardous or a nuisance as to endanger the general public or other trees, plants or shrubs growing within the city or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located. The city forester shall give written notice to such owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days, as determined by the city forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim such tree within the time limits, the city forester shall cause the tree to be removed, treated or trimmed and shall report the full costs thereof to the clerk-treasurer, who shall thereupon enter such costs as a special charge against the property.
- (b) Tree removal permit. No person shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the city forester. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the city forester, because of disease, damage, hazardous condition and/or location or its location is such that substantial detriment is done to the property upon which the tree or shrub stands or the property abutting the tree or shrub. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.
- (c) Tree and stump removal standards. In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out or ground out to a depth of at least nine inches below grade measured in a straight line with the normal grade of the sidewalk to the top of the curb. All wood and debris must be removed from the street prior to the end of each working day, and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased. The city has the right to keep any of the wood products. The city forester shall, upon request, offer the wood product to the abutting landowner first, then advertise and sell it to the highest bidder.
- (d) Tree replacement. Upon removal of any tree on public lands, the city forester will use his/her discretion if the tree will be replaced. With approval by the city forester, the city will replace the tree that was removed.

(Code 1999, § 6-4-10)

Sec. 34-117. - Prohibited acts.

- (a) Damage to public trees. No person shall, without the consent of the owner, for a private tree or shrub, or without written permits from the city forester, for a terrace area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
 - (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the tree or shrub.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree or fasten any guy wire, cable, rope, nails, screws or other device to any tree. However, the city may tie temporary no parking signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
 - (7) Except with a written permit from the city forester, place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.
- (b) Excavations. All trees on any parkway or other publicly owned property near any excavation or construction of any building or structure or street work shall be sufficiently guarded and protected by those responsible for such work to prevent any injury to such trees. No person shall excavate any ditches, tunnels or trenches or install pavement within a radius of ten feet from any public tree without a permit from the city forester.
- (c) Interference with forester. No person shall:
 - (1) Interfere with or prevent any acts of the city forester or his/her agents while he/she is engaged in the performance of duties imposed by this section.
 - (2) Refuse to permit the city forester or his/her representative to enter upon his/her premises at reasonable times to exercise the duties imposed by this article.
- (d) Refusal to abate nuisance. No person shall permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the city forester to abate such nuisance.

(Code 1999, § 6-4-11)

Sec. 34-118. - Appeal from determinations or orders.

Any person who receives a determination or order under this article from the city forester and who objects to all or any part thereof shall have the right to appeal such determination or order, subject to article XI of chapter 2, to the common council within seven days of receipt of the order. The common council shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing, the common council may reverse, affirm or modify the order or determination appealed from, and the grounds for its decision shall be stated in writing. The common council shall, by letter, notify the party

appealing the order or determination of its decision within ten days after the hearing has been concluded. The council shall file its written decision with the clerk-treasurer.

(Code 1999, § 6-4-12)

ARTICLE IV. - TREES AND SHRUBS

Sec. 34-106. - Adoption of state statutes.

Wis. Stats. §§ 27.09 and 86.03 are adopted and incorporated in this article by reference.

(Code 1999, § 6-4-13)

Sec. 34-107. - Statement of policy and applicability.

- (a) Intent and purpose. It is the policy of the city to regulate and establish policy for the control of planting, removal, maintenance and protection of trees and shrubs in or upon all public areas and terrace areas of the city to:
- (1) Eliminate and guard against dangerous conditions which may result in injury to persons using the streets, alleys, sidewalks or other public areas;
 - (2) Promote and enhance the beauty and general welfare of the city;
 - (3) Prohibit the undesirable and unsafe planting, removal, treatment and maintenance of trees and shrubs located in public areas; and
 - (4) Guard all trees and shrubs, both public and private, within the city against the spread of disease, insects or pests.
- (b) Applicability. This article shall apply to trees and shrubs growing or planted after the effective date of the ordinance from which this section is derived in or upon public areas and terrace areas and also to all trees and shrubs growing or to be planted in or upon any private premises which shall threaten the life, health, safety or welfare of the public or of any public areas.
- (c) Powers of council. The common council is empowered to require landowners to remove, trim or treat specified trees, shrubs or plants under certain conditions and to prohibit the planting of certain trees or tree species, shrubs or plants on private lands within the city.

(Code 1999, § 6-4-1)

Sec. 34-108. - Definitions.

Whenever the following words or terms are used in this article, they shall be construed to have the following meanings:

Boulevard areas and terrace areas mean the land between the normal location of the street curbing and sidewalk. Where there is no curb and gutter, ~~the area four feet from the curblne shall be deemed to be a boulevard for the purpose of this article~~ city owned right-of-way shall be determined. The term "boulevard" shall have the same meaning as the term "terrace." ~~Where there are no sidewalks, the area seven feet from the curb shall be deemed boulevard areas under this article.~~

Curb means an enclosing frame, border or edging; a raised edge or margin to strengthen or confine.

Evergreen tree means any woody plant normally having one stem or trunk and bearing foliage in the form of needles and crowns which extend from ground level throughout its entire height.

City Forester means the Parks, Recreation and Cemetery Director ~~person designated by the common council as authorized to carry out this article, or his/her designee. as the community resources director or designee.~~

Comment [DJK1]: May want to define Topping and that this cannot occur in the C

Comment [SR2]: Boulevard and terrace are determined by a measurement, and this be stated in the ordinance.

Comment [SR3]: This title no longer exists within the city and is not necessary within the document.

Major alteration means trimming a tree beyond necessary trimming to comply with this article.

Public areas includes all public parks, ~~boulevard/terraces~~ and other lands owned, controlled or leased by the city, ~~except the terrace areas. Including boulevard and/or terrace areas.~~

Comment [SR4]: The "except" language congruent with our current management p

Public nuisance means any tree or shrub or part thereof which, by reason of its condition, interferes with the use of any public area; is infected with a plant disease; is infested with injurious insects or pests; is injurious to public improvements; or endangers the life, health, safety or welfare of persons or property.

Public trees and shrubs means all trees and shrubs located or to be planted in or upon public areas.

Shrubs means any woody vegetation or a woody plant having multiple stems and bearing foliage from the ground up.

~~Topping or rounding over means the cutting of large diameter branches (more than three (3") inches in diameter) at a point between lateral shoots thereby leaving stubs, resulting in substantial size reduction of the canopy and destruction of the natural form/shape of a mature tree. Topping is not allowed on public property.~~

Tree means any woody plant, normally having one stem or trunk bearing its foliage or crown well above ground level to ~~potential~~ heights of ~~16~~ 15 feet or more.

(Code 1999, § 6-4-2)

Cross reference— Definitions generally, § 1-2.

Sec. 34-109. - Designation of city forester; authority of city forester to enter private premises.

- (a) The common council may designate a municipal employee or citizen to perform the duties of city forester under Wis. Stats. § 27.09 and may authorize such forester to perform the duties and exercise the powers imposed on the common council by this article.
- (b) The city forester or his/her authorized representative may enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the sections of this article. If a request to inspect such trees or shrubs is denied by the person responsible for the property, an inspection warrant may be obtained pursuant to Wis. Stats. § 66.0119.

(Code 1999, § 6-4-3)

Sec. 34-110. - Interference with city forester prohibited.

No person shall interfere with the city forester and his/her authorized representative while they are engaged in carrying out any work or activities authorized by this article.

(Code 1999, § 6-4-4)

Sec. 34-111. - Abatement of tree disease nuisances.

- (a) Tree diseases declared public nuisance. The common council has determined that there are many trees growing on public and private premises within the city, the loss of which would substantially depreciate the value of public and private property, impair the use and enjoyment of public and private premises and erode the tax base of the city, and that the health and life of such trees is threatened by fatal diseases. The common council declares its intention to control and prevent the spread of such diseases and the insect pests and vectors which carry such diseases and specifically declares such diseases to be public nuisances.

(b) Definitions. As used in this section, unless otherwise clearly indicated by the context:

Public nuisance means:

- (1) Any deleterious or fatal tree ~~disease~~. **Infection or infestation**
- (2) Any tree or part thereof which, by reason of its condition and location, is hazardous or dangerous to persons and property using or upon any public street, sidewalk, alley, park or other public place, including the **boulevard/terrace strip**. Any tree or part thereof which, by reason of its condition and location is hazardous or dangerous to **other trees, plants or shrubs growing within the city or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises. between curb and lot lines.**
- ~~(3) Any tree or part thereof which is infested by the eastern tent caterpillar or other defoliating larvae.~~

Public property means owned or controlled by the city, including without limitation because of enumeration public sites, parks, playgrounds, streets, alleys, sidewalks, boulevards and the terrace strip between the lot line and the curb or improved portion of any public way.

(c) Inspection. Inspection shall be conducted as follows:

- (1) The city forester shall inspect or cause to be inspected all premises and places within the city to determine whether any public nuisance exists thereon.
- (2) Whenever necessary to determine the existence of disease in any tree, the person inspecting such tree shall remove or cut specimens from the tree in such manner as to avoid fatal injury thereto and deliver such specimens for analysis to determine the presence of such nuisances.
- (3) The city forester or his/her agents shall have authority to enter upon private premises at reasonable times for the purpose of carrying out any of the provisions of this section.

(d) Abatement of nuisances. The duty of the city forester in the abatement of nuisances is as follows:

- (1) The city forester shall order, direct, supervise and control the abatement of public nuisances as defined in this section by spraying, removal, burning or by other means which he/she determines to be necessary to prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry such diseases, **or remove the hazard.**

- (a) (2) Whenever the city forester after inspection or examination shall determine that a public nuisance exists on public property in the city, he/she shall immediately abate or cause the abatement of such nuisance in such manner as to destroy or prevent as fully as possible the spread of deleterious tree diseases or the insect pests or vectors known to carry **or cause such disease nuisance. The cost of abating any such nuisance or part thereof which is located in or upon any park, city owned property, or city owned public right-of-way shall be borne by the city.**

- (3) a. When the city forester shall determine with reasonable certainty that a public nuisance exists upon private premises, he/she shall immediately serve or cause to be served personally or by certified mail upon the owner of such property, if he/she can be found, or upon the occupant thereof a written notice of the existence of such nuisance and of a time and place for a hearing before the city forester, not less than 14 days after service of such notice, on the abatement action to be taken. Such notice shall describe the nuisance and recommend procedures for its abatement and shall further state that, unless the owner shall abate the nuisance in the manner specified in the notice or shall appear at the hearing to show that such nuisance does not exist or does not endanger the health of trees in the city, the city forester shall cause the abatement thereof at the expense of the property served. If the owner cannot be found, such notice shall be given by publication in a newspaper of general circulation in the city.
- b. If, after the hearing held pursuant to subsection (d)(3)a of this section, it shall be determined by the common council that a public nuisance exists, it shall forthwith order the immediate abatement thereof. Unless the property owner abates the nuisance as directed

Comment [DJK5]: I suggest removing t disease and use "infection or infestation", t addresses both diseases and insects. Best r specifically list names as who knows what r insect or disease will be found in the future

Comment [SR6]: Moved from page 7 u 34-116 – Removal of trees and stumps.

Comment [SR7]: Unnecessary already :

Comment [DJK8]: Can remove this ent as eastern tent caterpillar rarely kills trees

Comment [SR9]: Replace with nuisance

within five days after such hearing, the city forester shall proceed to abate the nuisance and cause the cost thereof to be assessed against the property in accordance with the procedures provided in this section. The city forester may extend the time allowed the property owner for abatement work, but not to exceed ten additional days.

(e) Spraying. Spraying shall be in accordance with the following:

- (1) Whenever the common council, upon the recommendation of the city forester, shall determine that any tree or part thereof is infected/~~infested~~ with a deleterious or fatal tree disease/~~insects~~ or is in a weakened condition ~~or harbors elm bark beetles~~, the city forester may cause all trees within a 1,000-foot radius to be sprayed with an effective disease-destroying concentrate or other insecticide.
- (2) In order to facilitate the work and minimize the inconvenience to the public of any spraying operations conducted under this section, the forester shall cause to be given advance public service announcements or other effective means and shall also cause the posting of appropriate warning notices in the areas and along the streets where trees are to be sprayed at least 24 hours in advance of spraying. When any residue or concentrate from municipal spraying operations can be expected to be deposited on any public street, the forester shall also notify the chief of police, who shall take all necessary steps to make and enforce temporary parking and traffic regulations on such streets as conditions require. Temporary no parking notices shall be posted in each block of any affected street at least 24 hours in advance of spraying operations.
- (3) When appropriate warning notices and temporary no parking notices have been given and posted in accordance with subsection (e)(2) of this section, the city shall not allow any claim for damages to any vehicle caused by such spraying operations.
- (4) When trees on private property are to be sprayed, the forester shall notify the owner of such property and proceed to accordance with the requirements of subsection (d)(3) of this section.

(Code 1999, § 6-4-5)

Sec. 34 ~~112. Assessment of costs of abatement.~~ Cost of Planting, Removal, Maintenance, and Protection of Public Trees and Shrubs

- (a) ~~The entire costs of abating any public nuisance or spraying trees shall be charged to and assessed against the parcel or lot abutting on the street, alley, terrace, boulevard or parkway upon or in which such tree is located on or the parcel or lot upon which such tree stands in accordance with Wis. Stats. § 66.0627. The cost of abating any such nuisance or part thereof which is located in or upon any park shall be borne by the city.~~
- (b) ~~The cost of abating a public nuisance, when done at the direction and under the supervision of the forester, shall be assessed to the property to which such nuisance, tree or wood is located as follows:~~
 - (1) ~~The forester shall keep a strict account of the costs of such work or spraying and the amount chargeable to each lot or parcel and shall report such work, charges, description of lands to which charged and names and addresses of the owners of such lands to the common council on or before October 15 of each year.~~
 - (2) ~~Upon receiving the forester's report, the council shall hold a public hearing on such proposed charges, giving at least 14 days' advance notice of the time, place and purpose of such hearing to interested persons by publication in a newspaper of general circulation in the city and by mail to the owner of each property proposed to be charged. Each property owner shall be notified of the amount proposed to be assessed against premises and the work for which such charge is being made.~~

Comment [SR10]: Does not make any :
list one insect example.

Comment [SR11]: This section needs to be updated with how the program has functioned historically, and how the program should function in the best interests of the city of Antigo. The ordinance came from the City of Steven's Point ordinance.

- (3) ~~After such hearing, the common council shall affirm, modify and affirm or disapprove such assessments by resolution and shall cause a copy thereof to be published. Upon adoption and publication of such resolution, assessments made thereby shall be deemed final.~~
- (4) ~~The clerk-treasurer shall mail notice of the amount of such final assessment to each owner of property assessed at his/her last known address stating that, unless paid within 30 days of the date of the notice, such assessment will be entered on the tax roll as a tax against the property, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such assessment.~~
- (5) ~~The city declares that, in making assessments under this section, it is acting under its police power, and no damages shall be awarded to any owner for the destruction of any diseased or infested tree or wood part thereof.~~
- a) The entire cost of planting, removal, maintenance, and protection of trees and shrubs in all public areas of the city when performed by department employees or their contractors at the direction of the city forester, shall be borne by the city out of the department budgets, or from funds donated or otherwise acquired for this purpose. When a private party other than the city plants, removes, maintains, or protects public trees or shrubs the said party shall incur all expenses connected therewith.
- b) Permit Required. No person shall plant, remove, maintain, or protect any public tree or shrub, or cause such work to be done without obtaining a written permit from the city.

(Code 1999, § 6-4-6)

Sec. 34-113. - Planting of trees and shrubs.

- (a) Purpose. The common council states its determination that the planting, care and protection of the trees within the city are desirable for the purpose of beauty, shade, comfort, noise abatement and economic betterment and encourages all persons to assist in a program of tree planting, care and protection.
- (b) Tree planting program. The ~~park, recreation and cemetery director~~ the City Forester shall recommend to the common council, ~~with approval from the city forester,~~ a program for tree planting, care and protection for public parks, ~~boulevard and/or terrace areas.~~ The common council shall also encourage the planting, care and protection of trees and shrubs on private premises within the city.
- (c) Tree types. The size and genus, species and variety of trees and shrubs to be planted in terraces, ~~tree banks~~ and boulevards and the manner of planting shall be submitted to the city forester for approval before commencement of such work. The city forester shall prepare and maintain lists of tree species desirable for planting according to their normal mature height as follows:
- (1) Large trees: over 40 feet;
 - (2) Medium trees: 25 to 40 feet; and
 - (3) Small trees: 15 to 25 feet.
- (d) Planting size. Planting size shall be as follows:
- (1) All large or medium trees, when planted, shall be at least eight feet high and shall have a minimum trunk diameter of 1½ inches at a point six inches above the ground.
 - (2) All small trees, when planted, shall be least five feet high and shall have five or more branches.
- (e) Location. Location shall be as follows:
- (1) There shall be a minimum distance of ~~16 25 feet between small trees, 35 feet for medium trees and 50 feet for large trees. feet and a recommended distance of 25 to 50 feet between terrace~~

Comment [DJK12]: I suggest removing Tree Bank as it has never been listed prior, known definition

Comment [DJK13]: Distances should be small trees, 35 ft. medium & 50 ft. for large

~~area trees depending upon the size of trees and other factors.~~ Terrace/boulevard trees shall be planted an equal distance between the sidewalk or proposed sidewalk and back of the curb or proposed back of curb. In boulevard/terrace areas less than five feet wide, planting will not be permitted. ~~Terrace area trees shall be a minimum of 25 feet from an intersection or alley.~~ To ensure appropriate vision setback trees shall be planted in accordance to Sec. 14-777. – Traffic visibility triangle.

- (2) Small sized trees shall be planted at least five feet from driveways and large or medium sized trees shall be planted at least 15 feet from driveways. Trees shall also be planted at least 15 feet from curb box/water shutoffs and underground utilities.
- (3) Evergreen trees or shrubs shall not be planted in a terrace area.
- (4) It shall be unlawful to plant or maintain shrubbery, ground cover or other plants not considered to be a deciduous leaf tree within terrace areas whose growth is in excess of eight inches in height above the top of the nearest curb.
- (5) No tree grates will be allowed around any tree in the terrace.
- (f) Minimum opening to be maintained. Unless otherwise provided for in a written permit from the city forester, there must be at least ~~one~~ 36 square feet of open ground about the base of each tree three inches in diameter one foot above the ground, and for each two inches of increase in such diameter there must be an increase of at least one square foot of open ground around each such tree.
- (g) Permitted species. Only trees approved by the city forester shall be planted in a public terrace strip (between curb and sidewalk).
- (h) Certain species restricted. No person shall plant within the city any female tree of the species *Populus deltoides*, commonly called the cottonwood, or any tree commonly called the seed-bearing box elder (*Acer negundo*), which may become infested with box elder bugs, and such trees are declared a nuisance. Any person having any such trees on his/her premises shall cause the trees to be removed.
- (i) Unlawfully planted trees. Trees, plants or shrubs planted within any terrace or planting easement without the authorization and approval of the city forester may be removed. The city forester shall notify the abutting owner in writing, listing the unlawfully planted trees, plants or shrubs; ordering their removal; and establishing a reasonable time within which such removal shall be accomplished. If removal is not accomplished within the time specified, the city may remove such trees, plants or shrubs and assess the costs thereof to the owner.
- (j) Frames. Without the approval of the city forester, any person, adjacent to whose land any shade or ornamental tree or shrub is growing in any street, may not, for the purpose of protecting such tree or shrub, surround the tree or shrub with a suitable box or frame for protection. Borders must be installed around the planters downtown and will be maintained by the city or designated representative. The city forester will inform the city of any repairs needed.

Comment [DJK14]: For the health of t
it
should be 36 sq. ft.

(Code 1999, § 6-4-7; Ord. No. 1217B, §§ 1, 2, 9-8-2010)

Sec. 34-114. - Trimming.

- (a) Trees and shrubs standing in or upon any terrace, public area or upon any private premises adjacent to any public right-of-way or public area shall be kept trimmed so that the lowest branches projecting over the public street or alley provide a clearance of not less than 14 feet. The city forester may waive this subsection for newly planted trees if he/she determines that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety.
- (b) The necessity of the pruning may be determined by the city forester.
- (c) Clearance from sidewalk to lower branches shall not be less than ten feet. All trees standing upon private property in the city, the branches of which extend over the line of the street, shall be trimmed

so that no branch shall grow or hang over the line of the sidewalk lower than ten feet above the level of the sidewalk. No tree shall be permitted to grow in such a manner as to obstruct the proper diffusion of light from any public lamp. The city forester may waive this subsection for newly planted and existing trees if he/she determines that they do not interfere with public travel, obstruct the light of any streetlight or endanger public safety.

- (d) ~~Trimming or pruning of more than two-thirds of the crown of a public area tree shall be considered to be a major alteration and shall require a permit from the city forester.~~
- (d) There shall be a moratorium on pruning or removal of oak trees on public or private property from April 1 – September 1.

Comment [DJK15]: I would remove the pruning by residents is not a good idea for safety and properly pruning trees.

(Code 1999, § 6-4-8)

Sec. 34-115. - Trees and shrubbery obstructing view at intersection or view of traffic signs.

- (a) Notwithstanding any other section of this article, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the city any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- (b) It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign or driveway approach to a street in the city. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- (c) Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be dangerous to public travel, and the city forester may order, by written notice, the owner or occupant of any private place or premises on which there stands a tree or shrub which unreasonably interferes with or encroaches upon the street or sidewalk to take such steps as are necessary to remove such interference. If such owner or occupant fails, within ten days of receipt of notice, to take such necessary steps, the city forester and/or common council shall order city employees to remove the interference. The cost of removing the interference shall be levied and collected as a special tax upon the property upon which or in front of which such tree or shrub stands.
- (d) Any person who is an owner or occupant or firm or corporation failing to obey the written notice of the city forester as specified to subsection (c) of this section shall, upon conviction thereof, be subject to a forfeiture as established in section 1-14.

(Code 1999, § 6-4-9)

Sec. 34-116. - Removal of trees and stumps.

~~Dangerous, obstructive and infected trees. Any tree or part thereof, whether alive or dead, which the city forester shall find to be infected, hazardous or a nuisance as to endanger the general public or other trees, plants or shrubs growing within the city or to be injurious to sewers, sidewalks or other public improvements, whether growing upon public or private premises, shall be removed, trimmed or treated by the owner of the property upon or adjacent to which such tree or part thereof is located.~~

~~The city forester shall give written notice to such owner to remedy the situation which shall be served personally or posted upon the affected tree. Such notice shall specifically state the period of time within which the action must be taken, which shall be within not less than 24 hours nor more than 14 days, as determined by the city forester on the basis of the seriousness of the condition of the tree or danger to the public. If the owner shall fail to remove, treat or trim~~

Comment [SR16]: Moved to page 3 un public nuisance.

~~such tree within the time limits, the city forester shall cause the tree to be removed, treated or trimmed and shall report the full costs thereof to the clerk-treasurer, who shall thereupon enter such costs as a special charge against the property.~~

- (b) Tree removal permit. No person shall plant, injure, trim, remove or destroy any tree or shrub located in or upon any public place, until a permit shall have been issued by the city ~~forester~~. Such permit shall be issued only when the removal, trimming or cutting of the tree or shrub is necessary, as determined by the city forester, because of disease, damage, hazardous condition and/or location or its location is such that substantial detriment is done to the property upon which the tree or shrub stands or the property abutting the tree or shrub. Such permit shall expressly state the premises upon which the tree stands and the location of the tree thereon.
- (c) Tree and stump removal standards. In cutting down trees located in public and terrace areas, the tree must be removed with the root stump grubbed out or ground out to a depth of at least nine inches below grade measured in a straight line with the normal grade of the sidewalk to the top of the curb. All wood and debris must be removed from the street prior to the end of each working day, and all holes shall be filled to normal grade level with topsoil as soon as practicable. The abutting property owner shall have a right of first refusal to keep the wood, provided such wood is not diseased or infested. The city has the right to keep any of the wood products. ~~The city forester shall, upon request, offer the wood product to the abutting landowner first. then advertise and sell it to the highest bidder.~~
- (d) Tree replacement. Upon removal of any tree on public lands, the city forester will use his/her discretion if the tree will be replaced. With approval by the city forester, the city will replace the tree that was removed.

(Code 1999, § 6-4-10)

Sec. 34-117. - Prohibited acts.

- (a) Damage to public trees. No person shall, without the consent of the owner, for a private tree or shrub, or without written permits from the city forester, for a terrace area tree, public tree or shrub, perform or cause to be performed by others any of the following acts:
- (1) Secure, fasten or run any rope, wire sign, unprotected electrical installation or other device or material to, around or through a tree or shrub.
 - (2) Break, injure, mutilate, deface, kill or destroy any tree or shrub or permit any fire to burn where it will injure any tree or shrub.
 - (3) Permit any toxic chemical, gas, smoke, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub or place cement or other solid substance around the base of the tree or shrub.
 - (4) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer.
 - (5) Attach any sign, poster, notice or other object on any tree or fasten any guy wire, cable, rope, nails, screws or other device to any tree. However, the city may tie temporary no parking signs to trees when necessary in conjunction with street improvement work, tree maintenance work or parades.
 - (6) Cause or encourage any fire or burning near or around any tree.
 - (7) Except with a written permit from the city forester, place or maintain upon the ground any stone, brick, cement or other impervious substance in such manner as may obstruct the free access of air or water to the roots of any tree, shrub or plant in or upon any public way or public place.

Comment [SR17]: The instructions for public nuisance on private and public property stated in section 6-4-4, and should match.

Comment [DJK18]: (or infested). Comment seem redundant.

- (b) Excavations. All trees on any parkway or other publicly owned property near any excavation or construction of any building or structure or street work shall be sufficiently guarded and protected by those responsible for such work to prevent any injury to such trees. No person shall excavate any ditches, tunnels or trenches or install pavement ~~closer than 1.5' for every inch of trunk measured at DBH or 4.5' above ground level within a radius of ten~~ from any public tree. ~~without a permit from the city forester.~~
- (c) Interference with forester. No person shall:
- (1) Interfere with or prevent any acts of the city forester or his/her agents while he/she is engaged in the performance of duties imposed by this section.
 - (2) Refuse to permit the city forester or his/her representative to enter upon his/her premises at reasonable times to exercise the duties imposed by this article.
- (d) Refusal to abate nuisance. No person shall permit any public nuisance to remain on any premises owned or controlled by him/her when ordered by the city forester to abate such nuisance.

Comment [DJK19]: I suggest using a foot for every inch of trunk measured at DBH or 4 ½' above ground level.

(Code 1999, § 6-4-11)

Sec. 34-118. - Appeal from determinations or orders.

Any person who receives a determination or order under this article from the city forester and who objects to all or any part thereof shall have the right to appeal such determination or order, subject to article XI of chapter 2, to the common council within seven days of receipt of the order. The common council shall hear such appeal within 30 days of receipt of written notice of the appeal. After such hearing, the common council may reverse, affirm or modify the order or determination appealed from, and the grounds for its decision shall be stated in writing. The common council shall, by letter, notify the party appealing the order or determination of its decision within ten days after the hearing has been concluded. The council shall file its written decision with the clerk-treasurer.

(Code 1999, § 6-4-12)



To: Mayor and City Council
From: Amy Lynch, Human Resource Specialist
Date: November 16, 2016
Re: Request to fill vacancy within the DPW - Streets/Transportation/Water/Sewer division

Due to an upcoming retirement within the DPW - Streets/Transportation/Water/Sewer division on December 2, 2016, the Street Commissioner is seeking authorization to fill any resulting vacancy regardless of the department/division impacted by the retirement.



To: Mayor and City Council
From: Amy Lynch, Human Resource Specialist
Date: November 16, 2016
Re: Approve the updated #1 Grader Operator Job Description

A vacancy for the #1 Grader Operator position within our DPW - Transportation/Street/Water/Sewer division will become available with the upcoming retirement of a current employee. The Street Commissioner and the Human Resources Specialist have created a new job description for the position. Attached are the old job description and newly created job description.

POSITION DESCRIPTION

Position Title: #1 Grader Operator
 Department: Public Works
 Date: 12/14/2016

FLSA Status: Hourly/Not Exempt
 Position Status: Regular Full Time

GENERAL PURPOSE

The #1 Grader Operator operates all graders, oversees all plow routes, completes all computer work associated with the position, and assists other grader operators in the safe practice and operation of City equipment. The employee will perform a variety of skilled maintenance work and operate a variety of equipment in the construction, operation, repair, maintenance, and replacement of streets, sewer, and storm drainage facilities and systems.

SUPERVISION RECEIVED

This employee works under the direct supervision of the Street Commissioner and/or their designated representatives.

SUPERVISION EXERCISED

The employee will oversee all plow routes and confirm that all grader operators are performing snow removal effectively and efficiently. The employee will assist other grader operators in the safe practice and operation of City equipment. The employee will supervise crews at job sites if assigned to do so in the absence of the Street Commissioner. The employee will be required to oversee the work of part-time employees as well as seasonal employees as directed. Within one (1) year of full time service, must be capable of handling standby weekend and week night on call work.

ESSENTIAL DUTIES AND RESPONSIBILITIES

General Expectations

- Maintain prompt, predictable, and regular physical attendance
- Maintain the ability to lawfully operate designated motor vehicles and equipment at all times that duties are performed
- Maintain the ability to travel throughout and enter all different properties in the jurisdiction
- Provide truthful, accurate written and verbal communications
- Respond to complaints; communicate resolution process to immediate supervisor and refer matters requiring administrative attention to Department Head or designated representative
- Abide and assist in the implementation of safety rules and procedures
- Maintain relevant certifications
- Accepts and performs weekend and week night standby duty as scheduled

General Grader Operation/Responsibilities

- Show continuous growth and progress in the knowledge of graders, their use, maintenance, and the workings of each machine
- Assists in training of general laborers to increase their skills in maintenance, construction, and repairs of the street, sanitary sewer, storm drainage facilities and the safe and proper operation of all equipment
- Operate all graders and perform all service checks on them
- Ensure proper maintenance by cleaning and checking equipment and tools after use
- Performs routine inspections and preventative maintenance on assigned equipment and refers defects or needed repairs to the Mechanic Shop – Lead Worker
- Oversee all maintenance and operation of graders by general laborers to ensure compliance with City policies and procedures

- Determine the location of utilities from the appropriate sources prior to excavation
- Grade all gravel streets and alleys on a regular basis to ensure smooth passage and drainage
- Ensure that the street is at the proper gravel grade for blacktopping when working on new street construction
- Enforce City ordinances when violations are observed and refer matters to supervisor when required
- Maintain all data entry required with the position including, but not limited to, data collection for work orders and the creation of work orders utilizing computer software
- Perform grader operation work throughout the City as assigned

Required Labor

- **Construction and maintenance projects:** participate as part of a crew or individually, including but not limited to: pavement cutting, patching, crack-filling, working with hot tar applicators, ditch digging, manhole and sewer line cleaning, main and lead repairs, construction, and back-filling
- **Asset Management** (or other current software): performing computer data entry, and ensuring relevant software, programs and hardware are updated and functioning.
- **Water Division:** participate as part of a crew or individually, including but not limited to: valve training, hydrant maintenance, main repairs, service repairs, meter maintenance, and DNR compliance reports
- **Forestry:** participate as part of a crew or individually, including but not limited to: tree trimming, removal, planting, and care
- **Banners, signs and decorations:** putting up and taking down of banners, decorations, signs, and flags performed with use of aerial truck
- **Inspection and/or repairs:** examine streets, boulevards, trees, drainage systems, and sanitary sewer system to insure that all aspects are functioning
- **Snow removal:** clear streets, alleys, boulevards, parking lots, sidewalks, parks, etc. as assigned

General Equipment Maintenance

- Perform routine inspections, cleaning, and preventive maintenance on all equipment and tools prior to and upon completion of use; refers defects or needed repairs to Mechanic Shop – Lead Worker, immediate supervisor or Department Head, or designated representative

General Facility Maintenance

- Perform maintenance and construction on streets, sidewalks, parks, ball diamonds, trees, trails, and boulevards; along with general facility maintenance including fencing repairs and painting; as well as utility maintenance for water, storm water and sanitary sewer structures.

Equipment Operation

- Operate the following equipment, including but not limited to: construction, snow removal and other power equipment such as graders, tandem truck, single axle trucks, backhoe, sand and salt spreader trucks, sewer jet, sweeper, aerial truck, roller, dozer, loader, pneumatic tools, brush chipper, mowers, groomers, utility vehicles, and trimmers

PERIPHERAL DUTIES

- Serve on various employee committees
- Performs other duties as assigned
- Attend various City committee meetings when requested by Department Head or designated representative

DESIRED MINIMUM QUALIFICATIONS

Education and Experience:

- (A) Graduation from high school or GED equivalent; and
- (B) Two (2) years of experience using graders relating to construction, municipal maintenance, and equipment operation as it relates to the roadway profession; and
- (C) Experience in preventative maintenance and operation of all equipment would be preferred; or
- (D) Any equivalent combination of education and experience

Necessary Knowledge, Skills and Abilities:

- (A) Proficient in the operation of graders
- (B) Considerable knowledge of equipment, facilities, materials, methods, and procedures used in municipal maintenance, operation, construction or repair activities
- (C) Skill in operation of the listed tools and equipment
- (D) Ability to perform heavy manual tasks for extended periods of time
- (E) Ability to work safely
- (F) Ability to communicate effectively verbally and in writing
- (G) Ability to work effectively with fellow employees, other departments and the public
- (H) Ability to understand and carry out written and oral instructions
- (I) Must have a working knowledge or ability and willingness to obtain a working knowledge of the following:
 - a. Windows operating systems and programs with an emphasis on Microsoft office; and
 - b. Ability to navigate web applications, and have an understanding of other emergent technologies and peripherals

SPECIAL REQUIREMENTS – Must possess or have the ability to possess within the one (1) year introductory period:

- (A) Possess a valid Wisconsin state driver's license, CDL – Class A, B, C with air brakes restriction and tanker (N) endorsement
- (B) Must reside within a fifteen (15) mile radius of the City limits
- (C) Must be able to complete general first aid and CPR training, and obtain CPR certification within six (6) months.

TOOLS AND EQUIPMENT USED

Motorized vehicles and construction equipment; common hand and power tools; telephone; mobile radio or portable radio; phone; personal computer including various software; and safety equipment including PPE and testing instruments

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Hand-eye coordination is necessary to operate computers and various pieces of equipment. While performing the duties of this job, the employee is frequently required to stand, walk, sit, climb, balance, stoop, kneel, crouch, talk, hear, and smell. The employee frequently uses hands to finger, handle, feel or operate objects, tools or controls; and reach with hands and arms. The employee may frequently be required to walk over rough terrain.

The employee must frequently lift and/or move up to 60 pounds. The employee will be required to slide, roll, push or pull on an occasional basis up to 140 pounds. The work will also require sitting and operating a keyboard. Specific vision abilities required by this job include close vision, distant vision, color vision, peripheral vision and depth perception.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee regularly works in outside weather conditions which may become extreme. The employee frequently works near moving parts and is exposed to wet and/or humid conditions, and vibrations. The employee occasionally works in high precarious places and is occasionally exposed to fumes or airborne particles, toxic or caustic chemicals and risk of electrical shock.

The noise level in the work environment is loud.

SELECTION GUIDELINES

Formal application, rating of education and experience; oral interview and reference and background check; drug testing; job related tests may be required.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to modification by the employer as the needs of the employer and requirements of the job change.

Effective Date: / /

POSITION DESCRIPTION

Class Title: No.1 Grader Operator, Class 2
Department: Public Works
Division: Street Dept
Union: Local 1192
Date: June 25, 2008

GENERAL PURPOSE

Performs limited supervision as assigned by the Street Commissioner at the job site.
Performs preventative maintenance on equipment assigned to. Performs a variety of skilled maintenance work and operates a variety of equipment in the construction, operation, repair, maintenance and replacement of City street, sewer and storm drainage facilities and systems.

SUPERVISION RECEIVED

Works under the direct supervision and guidance of the Street Commissioner, and/or Public Works supervisors.

SUPERVISION EXERCISED

Supervise crews at job site if assigned to do so in the absence of the Street Commissioner.
Confirms that all grader operators are performing snow removal effectively and efficiently.

ESSENTIAL DUTIES AND RESPONSIBILITIES

Oversees all maintenance and operation of graders by lower level employees to ensure compliance with City policies and procedures. Operate all graders and perform all service checks on them.

Grade all gravel streets on a regular basis to ensure smooth passage.

Plow snow in the uptown area into a windrow for pick-up. Plow snow on assigned snow route.

New street construction, ensure street is at proper gravel grade for blacktopping.

Inspects and/or repairs streets, drainage systems and sanitary sewer system as assigned to insure all aspects of the systems are functioning properly.

Determines the location of utilities from the appropriate sources prior to excavation.

Responds to complaint as assigned and explains findings to supervisor.

Insures the proper maintenance of equipment and tools by cleaning and checking equipment and tools after use.

Performs routine inspections and preventative maintenance on assigned equipment and refers defects or needed repairs to shop mechanic/foreman.

Performs all duties in conformance to appropriate safety and security standards.

Performs required labor involved in construction and maintenance projects as part of a crew, including pavement cutting.

Assists in training of lower level employees to increase their skills in the maintenance, construction and repairs of the street, sanitary sewer, storm drainage facilities and the safe and proper operation of the equipment.

Operates a variety of power construction and maintenance equipment as listed in the contract, used in the sewer and street department.

Responsible for data collection for work orders and creation of work orders utilizing computer software.

Responsible for organization and performance of all grader work to efficiently finish the operations assigned.

Responsible for ensuring that all grader operators are performing snow removal operations effectively and efficiently.

PERIPHERAL DUTIES

Capable of performing all functions associated with Street Maintenance, Snow and Ice Control, Street Sweeping and Dust Control, Storm Sewers, Street Shop, Celebrations and Entertainment, Street Construction/Reconstruction, Refuse and Garbage and Sewer Construction. Serve on various employee or other committees as assigned.

DESIRED MINIMUM QUALIFICATIONS

Education and Experience

- (A) Graduation from high school or GED equivalent.
- (B) Five (5) years experience in preventative maintenance and operation of all equipment.
- (C) Any equivalent combination of education and experience.
- (D) Previous experience in operating all graders.

Necessary Knowledge, Skills and Abilities

- (A) Thorough knowledge of principles, practices, methods and equipment applicable to modern street maintenance and construction.
- (B) Skill operating the listed tools and equipment.
- (C) Ability to communicate effectively orally with fellow employees, Public Works supervisors, City officials and the general public.
- (D) Must possess basic computer skills & knowledge of Windows operating system.

SPECIAL REQUIREMENTS

- (A) Must possess a valid state driver's license, CDL with Air Brakes, Tanker and Trailer endorsements or have the ability to obtain one prior to expiration of the six (6) months probation.
- (B) Must be able to complete general first aid and CPR training and obtain CPR certification within six (6) months.

TOOLS AND EQUIPMENT USED

Small hand tools. It would be beneficial to be capable of operating all of the City's equipment.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this position. Reasonable accommodations may be made to enable an individual with disabilities to perform the essential functions.

Work place setting is in the field with limited shop time. Hand-eye coordination is necessary to operate tools and equipment.

While performing the duties of this job the employee is occasionally required to stand, walk, use hands to finger, handle, feel or operate objects, tools, controls or equipment and reach with hands and arms. The employee is occasionally required to sit, climb or balance, stoop, kneel, crouch or crawl, talk or hear and smell.

The employee must occasionally lift and/or move up to 60 pounds. Specific vision capabilities required for this job include close vision, distance vision, color vision, peripheral vision and depth perception.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job the employee basically works in outside weather conditions. The employee will work near moving parts and in high precarious places and may be exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock or vibration.

The noise level in the work environment varies from moderate to loud.

SELECTION GUIDELINES

Formal application, qualification sheet, sign posting in accordance with posting guidelines of the contract. Hiring from outside the work force will require formal application, oral interview and reference check and possibly background check.

The duties listed above are intended only as illustration of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

Approval: _____

 Supervisor

Approval: _____

 Employee

Date: _____

Date: _____



To: Mayor and City Council
From: Mark Desotell, Director of Administrative Services
Date: November 16, 2016
Re: 2017 Exempt and Non-Represented Employee Wage Increase Recommendation

The 2017 budget document presented to the Common Council on Wednesday, November 2nd, 2016 included the projections resulting from a recommended salary increase of 1.5% for all exempt and non-represented employees. This recommendation is based not only upon our staff's ability to deliver quality services to the Citizens of Antigo but is also based on a comparable total cost for negotiated wage and WRS retirement premium increases for our Public Safety staff.

Your concurrence in the recommended wage increase of 1.5% will help to recognize these efforts while solidifying staffs continued commitment towards being positive representatives of the City of Antigo.



To: Mayor and City Council
From: Mark Desotell, Director of Administrative Services
Date: November 16, 2016
Re: Recommended January 1, 2017 thru December 31, 2019 Labor Agreement between the City of Antigo and the Firefighter's Union

SUMMARY OF 2017 THRU 2019 CONTRACT NEGOTIATIONS w/ FIREFIGHTERS

The following summarizes the impacts of collective bargaining with the Antigo Firefighter's Union during the months of September/October of 2016:

- **Article 29 Duration of Proposed Agreement & Appendix A Wages**
 - 3 year agreement with 1%, 2% and 1.5% effective January 1st of 2017, 2018 & 2019 respectively
 - Appendix A (Wages) were adjusted accordingly
 - Raise effective on January 1, 2017 consists of 0.5% across the board raise + 0.5% for Critical Care Paramedic classifications only
- **Article 3(B) Trial Period in New Position**
 - Added language such that the employee **may not** utilize the grievance procedure for a proposed rank reduction by the Fire Chief
 - Added language allowing for an extension of the promotional trial period for an additional six months by mutual agreement of the Chief and the union.
- **Article 6(C) Emergency Medical Service**
 - Struck entire Section regarding Emergency Medical Service as it was no longer relevant
 - Replaced with a new Article 6(C) regarding Field Training Officer (FTO) assignments similar to that found in the Police Union Agreement providing for accrual of 1 hour of compensatory time for each 24 hour shift that a Firefighter is assigned to a probationary employee.
- **Article 7(A) Definition of a Grievance**
 - Identified a grievance such that it shall not include any disciplinary matters involving suspension, reduction in rank (demotion), suspension and reduction in rank, or removal as such matters shall be processed in accordance with the applicable State Statutes and not under this grievance procedure.

- **Article 8 Arbitration Procedure**

- Article 8(B) - Revised language such that the Wisconsin Employment Relations Commission is to provide a list of 5 potential arbitrators with alternating strikes by the employer and the bargaining unit until one name remains. By a flip of a coin during negotiations it was determined that the bargaining unit would be required to strike a name first on the initial arbitration case subsequent to ratification and alternating between the City and bargaining unit thereafter.
- Article 8(E) - Struck entire Section as Section 5(D) already addresses this matter

- **Article 16(E) Sick Leave & Article 17(C) Vacation Severance**

- Clarifies that a full-time employee is to provide a 30-day calendar notice of retirement to receive accumulated benefit

- **Article 18 Retirement**

- Reduces the employer's percentage of contribution from "up to 8%" to "up to 7%" under the Wisconsin Retirement Fund Plan

- **Article 19 Holidays**

- Changes the date for payment of the once per year for holidays from the payday nearest to December 1st to the payday immediately before Thanksgiving

- **Article 24 Dues Deduction**

- Created "housekeeping" language changes to mirror actual practice by the Human Resource Specialist and the bargaining unit

- **Article 28 Jury Duty**

- Identifies the requirement for employees to report for all scheduled hours outside of the actual jury duty hours worked

- **General Information**

- WRS employee portion of contributions continue to be paid by the employer for those hired prior to ACT 10 changes
- Employees continue to contribute 10% annually towards their the healthcare premiums



To: Mayor and City Council
From: Mark Desotell, Director of Administrative Services
Date: November 16, 2016
Re: Recommended January 1, 2017 thru December 31, 2019 Labor Agreement between the City of Antigo and the Police Officer's Union

The City's negotiating team last met with the Antigo Professional Police Officer's Association on Wednesday morning, November 9th and reached a Tentative Agreement (TA). Staff provided a copy of the proposed contract language changes to the Officer's Association for final review and scheduling of a ratification vote. It is anticipated that the ratification vote results will be known prior to the FP&L meeting scheduled for Wednesday, November 16th.

A memo summarizing the key negotiating components is not included in your agenda packet but will be provided to you after confirmation of the ratification vote (if time permits) or on the night of the FP&L meeting. If you have any questions, please feel free to reach out to me accordingly.

The Tentative Agreement is for a 3-year contract period.



To: Mayor and City Council
From: Jon Petroskey, Fire Chief
Date: November 16, 2016
Re: Statewide Structural Collapse Contract

I have attached a copy of the Statewide Structural Collapse contract for 2017 & 2018 which has been modified. Many of the changes are language changes and other changes represent how the team currently operates. I have included the “marked up” copy so you can see the proposed changes and I have also included the final version.

Three members of the fire department have been part of the collapse rescue team since 2013 and they have brought back many of the skills they have learned. The contract pays the city \$45 per hour while the members are at training which more than covers any overtime that we might incur.

Mike Winter has reviewed the contract with no problems.



**EXTENDED CONTRACT FOR
STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS**

JANUARY 1, 2017 THROUGH DECEMBER 31, 2018

Between

**STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

And

CITY OF ANTIGO, WISCONSIN

DATE: December 31, 2016

EXTENDED CONTRACT FOR STATEWIDE STRUCTURAL COLLAPSE TEAM MEMBERS

1.0 General Contract Information

1.1 **Parties:** This extended contract is between the State of Wisconsin, Department of Military Affairs, Division of Emergency Management (hereinafter "Division") and the Antigo Fire Department, City of Antigo, Wisconsin (hereinafter "Contractor") for the provision of Statewide Structural Collapse Team members as described herein and authorized under 2009 Wisconsin Act 43, as codified in §323.72 of the Wisconsin Statutes and as further amended.

1.2 **Recitals:** WHEREAS, in order to protect life and property against the dangers of emergencies involving a catastrophic incident, the Division may assign and make available for use in any county, city, or district, a Statewide Structural Collapse Team.

WHEREAS, the Division desires to enter into this Agreement with Contractor for the provision of team members to serve on one of three statewide platoons comprising the Statewide Structural Collapse Team, and Contractor desires to enter into this Agreement.

HOWEVER, the parties expressly recognize and attest by this Agreement that neither party intends to create or to assume fiduciary responsibilities to provide for the containment, cleanup, repair, restoration and investigation of the environment (air, land and water) in a structural collapse incident involving a hazardous substance, which is the responsibility and shall remain the sole obligation of the Wisconsin Department of Natural Resources under §§292.11 and 323.60(4), Wis. Stats.

1.3 **Contract Term:** This Agreement shall continue for 2 years commencing January 1, 2017 through December 31, 2018.

2.0 Definitions

2.1 **Definitions:** The following definitions are used throughout this Agreement:

Agreement means this Contract, together with the Exhibits. Exhibits include the following:

Exhibit A Standard Terms and Conditions

Exhibit B Certificate of Protection in Lieu of an Insurance Policy (as
Applicable to Contractor)

State means the State of Wisconsin.

Department means the State of Wisconsin, Department of Military Affairs.

Division means the Division of Emergency Management.

Contractor means the City of Antigo Fire Department, City of Antigo, Wisconsin by which Statewide Structural Collapse Team members will be provided under this Agreement.

Under §323.72(1), Stats., the Division may only contract with local agencies as defined in §323.70(1)(b), Stats.

Local Agency has the meaning under §323.70(1)(b), Stats.

Responsible Party means the person(s), as defined in §323.72(3)(a) and (b), Stats., who possessed or controlled a structure that was involved in the structural collapse or the person who caused the structural collapse which caused the emergency to which Contractor has responded.

Regional Emergency All-Climate Training Center (REACT) is a training facility owned by the State of Wisconsin, Department of Military Affairs and operated by the Division of Emergency Management.

Structural collapse means an incident involving all types of construction with emergency response activities that include expertise in 1) evaluating existing and potential conditions at structural collapse incidents; 2) recognizing unique collapse or failure hazards; 3) conducting search operations intended to locate victims trapped inside and beneath collapse debris; 4) accessing victims trapped inside and beneath collapse debris; 5) performing extrication operations involving packaging, treating, and removing victims trapped within and beneath collapse debris; and 6) stabilizing the structure. Structural collapse may include urban search and rescue.

Structural Collapse Team Member means an individual provided by Contractor serving as a team member on one of three platoons comprising the Statewide Structural Collapse Team to provide statewide structural collapse emergency response that meets the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended.

Statewide Structural Collapse Team Platoon means a component of the Statewide Structural Collapse Team made up of team members provided by the Contractor and/or designated employees of the Contractor who are expected to respond to, control, and/or stabilize the actual or potential incident.

Urban Search and Rescue (US&R) involves the location, rescue (extrication), and initial medical stabilization of victims trapped in confined spaces. Structural collapse is most often the cause of victims being trapped, but victims may also be trapped in transportation accidents, mines and collapsed trenches. Urban Search and Rescue is considered a "multi-hazard" discipline, as it may be needed for a variety of emergencies or disasters, including earthquakes, hurricanes, typhoons, storms and tornadoes, floods, dam failures, technological accidents, terrorist activities, and hazardous materials releases.

Urban Search and Rescue Task Force (US&R Task Force) is a team of individuals comprised of firefighters, engineers, medical professionals, canine/handler teams and incident managers with highly specialized training in urban search and rescue.

WI Task Force 1 Urban Search & Rescue (WI-TF1) means the name of the Statewide Structural Collapse Team.

3.0 Statement of Work

- 3.1 **Services to be provided by Contractor:** During the term of this Agreement, the Contractor agrees to provide statewide structural collapse team members for the three statewide platoons comprising the Statewide Structural Collapse Team (also known as WI-TF1).

Contractor's response activities under this Agreement shall be limited to emergency operations, reporting and documentation of activities arising from catastrophic incidents which threaten life, property and/or the environment. Contractor shall not provide under this Agreement any services with respect to the sampling, testing, analysis, treatment, removal, remediation, recovery, packaging, monitoring, transportation, movement of hazardous materials, cleanup, storage and disposal of hazardous materials except as these may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous material or in stabilizing the emergency response incident, as determined by the Contractor.

WI-TF1 shall establish safety perimeters at or near sites and vessels. WI-TF1 shall not be required to locate underground utilities, insure appropriate traffic control services, conduct hydrological investigations and analysis, or provide testing, removal and disposal of underground storage tanks at or near the emergency response incident to which the Contractor is dispatched.

The Division and Contractor make no representations to third parties with regard to the ultimate outcome of the urban search and rescue services to be provided, but Contractor and Division shall respond to the best of its abilities, subject to the terms of this Agreement.

- 3.2 **Performance Conditions:** Contractor acknowledges that it shall demonstrate to the Division that its employees designated as structural collapse teams members, urban search and rescue equipment, and associated vehicles meet or exceed applicable NFPA training standards and any regulatory requirements.
- 3.3 **Personnel:** Contractor shall provide qualified and competent personnel as identified by Contractor and designated by the Division as is reasonably necessary to operate within the safety levels of a statewide structural collapse team. Contractor understands and agrees that identified team members will meet applicable training standards and certifications at the time they are identified by Contractor to serve as members of WI-TF1.
- 3.4 **Vehicles and Equipment:** If the Division requests vehicles and equipment from the Contractor, it shall limit its activities to that which can be safely accomplished within the technical limitations of the available vehicles and equipment. Contractor may retain urban search and rescue equipment and vehicles provided by grant funding through the Division for Contractor's local use, however, Contractor agrees that in the event of multiple responses, said equipment which is already not committed to a prior response shall be used on a priority basis to respond to an incident.
- 3.5 **Vehicle and Equipment Use Limitations:** This Agreement in no way limits the Contractor from responding with urban search and rescue vehicles, equipment and supplies under local authority, mutual aid agreements, or other contracts under local authority.
- 3.6 **Response Procedures and Limitations:** Contractor recognizes that its obligations under this Agreement are paramount to the State of Wisconsin. Contractor agrees that if local

fire response obligations in Contractor's own jurisdiction create limits or unavailable resources, Contractor will seek aid from local jurisdictions to assist in local fire response obligations in Contractor's own jurisdiction.

Contractor and Division agree that WI-TF1 or components of the task force may be utilized for any incident for which its members are trained and qualified, including wide area search incidents. It is recognized that the Statewide Structural Collapse team created under § 323.72 Wis. Stats. is organized as an Urban Search and Rescue Task Force and its capabilities are not limited to structural collapse.

Contractor's obligation to provide services hereunder shall arise, with respect to specific response actions, upon receipt of an emergency response request pursuant to Standard Operating Guidelines provided in Subsection 3.8 herein.

- 3.7 **Right of Refusal:** If, on occasion, a response under this Agreement would temporarily place a verifiable undue burden on the Contractor because Contractor's resources are otherwise inadequate or unavailable and mutual aid is unavailable, then if notice has been provided to the Division, the Contractor may decline a request for a Statewide Structural Collapse Team emergency response.
- 3.8 **Standard Operating Guidelines:** Contractor and Division agree that WI-TF1 operations will be conducted in accordance with Standard Operating Guidelines and "Call-Out Procedure" that will be mutually approved by the parties to this Agreement. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic incident. The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1 at the REACT.

4.0 Training Costs and Reimbursement for Emergency Response

There are two types of Contractor costs under this Agreement: (1) Required Training Costs, and (2) Team Response Costs. Each of these costs are discussed more fully below.

- 4.1 **Required Training Costs:** Under §323.72(1), Stats., team personnel shall be trained and certified to the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended. As a condition of this Agreement, Contractor agrees that all team personnel shall attend urban search and rescue training and refresher training at the Regional Emergency All-Climate Training Center (REACT), which is owned and operated by the Division or at a location pre-approved in writing by the Division. The urban search and rescue and refresher training shall be a minimum of eighteen (18) hours per team member per annum. Additional specialty training is available at REACT. All team personnel attending training at REACT shall be in a non-duty status with Contractor. To facilitate planning for required training, the REACT training schedule shall be posted at minimum of twelve months in advance. This does not include specialized training which may be made available to team personnel with less advance notice. Required urban search and rescue training will be in accordance with the WI-TF1 Attendance Policy. Any

team personnel who have not attended or completed the required training will not be allowed to respond under the scope of this Agreement. Team personnel shall also keep current any state required certifications. The Division shall maintain all urban search and rescue and refresher training records on each team member for training received at REACT.

- 4.2 **Team Response Costs and Reimbursement:** Under §323.72(2), Stats., the Division shall reimburse the Statewide Structural Collapse Team for costs incurred by the team in responding to an emergency involving a structural collapse incident if the team determines that a structural collapse emergency requiring a response existed. Reimbursement is limited to amounts collected from the responsible person(s) as defined in §323.72(3) (a) and (b), Stats. Reimbursement under this subsection is available only if the Statewide Structural Collapse Team has identified the person who is required to reimburse the Division and provided that information to the Division. Further, Contractor shall comply with all Division-approved reimbursement procedures and/or duly enacted Administrative Rule(s).

A person shall reimburse the Division for costs incurred by the Statewide Structural Collapse Team in responding to an emergency if the team determines that an emergency requiring the team's response existed and that one of the following conditions applies:

- (1) The person possessed or controlled a structure that was involved in the structural collapse.
- (2) The person caused the structural collapse.

In the event a responsible person has been identified, Contractor shall be reimbursed for reasonable and necessary Team member response costs incurred in responding to a catastrophic incident under this Agreement. Such Team response costs may include, but are not limited to:

- (1) Reimbursement for use of Vehicle(s) and Apparatus: Contractor shall be reimbursed for the approved use of its vehicles and equipment at FEMA-established rates.
- (2) Personnel Expenses: Contractor's team response personnel expenses which are approved and authorized under this Agreement are reimbursable at \$45.00 per hour per deployed team member. During an emergency deployment, this shall be calculated as portal to portal.
- (3) Backfill expenses: Contractor's personnel backfill expenses to cover deployed team members are reimbursable at the Contractor's actual cost.
- (4) Emergency Expenses: Contractor's necessary and reasonable emergency expenses related to services rendered under this Agreement are reimbursable. All such expenses must be based on actual expenditures and fully documented by the

Contractor. The Division reserves the right to deny any reimbursement of unjustifiable Contractor expenditures.

- 4.3 **Minimum Contract Payment for Training Costs:** This Agreement shall have a minimum contract payment for training costs based upon \$45 per hour for the minimum of eighteen (18) hours per team member per annum in accordance with the WI-TF1 Attendance Policy. Payment for training costs will be made to Contractor on a quarterly basis. The payment will be determined by the actual hours of Division-approved training received by Contractor's team members during that quarter multiplied by \$45 per hour. In addition to the minimum contract payment, the Division will pay for enhanced training for specialty job assignments for team members as well as logistical and administrative support as determined and approved in advance by the Division. The minimum contract payment for training does not, however, include Contractor's team response costs as specified in Subsection 4.2 of this Agreement. Contractor's personnel backfill expenses to cover team members in training status are not reimbursable.

No additional Contractor payment or reimbursement shall be paid or any additional demands placed on Contractor under this Agreement unless otherwise specifically agreed to by the Division and the Contractor, and upon written amendment to this Agreement. The Division's reimbursement(s) shall be full payment for services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the services authorized under this Agreement. Acceptance of payment by the Contractor shall operate as a release of the Division of all claims by Contractor for reimbursement of team response costs except where partial payment has been made due to limitations as set forth above.

- 4.4 **Billing System for Division Reimbursement of Team Response Costs:** Contractor will provide an invoice for its team member response costs to the Division within ten (10) working days of the response. The Division will not bill responsible person(s) unless it receives an invoice from the Contractor. Contractor's claim for reimbursement shall contain such documentation as is necessary to support the Division's cost-recovery operations and financial audits. The Division agrees to bill responsible person(s) for the WI-TF1 response costs. Team response costs include such items as vehicle and equipment use, expendables and personnel costs. In addition, Division administrative costs may be billed as part of the emergency costs. Further, Contractor shall comply with all Division-approved procedures and/or duly enacted Administrative Rule(s).

The Division shall bill identified responsible person(s) within sixty (60) days of receipt of Contractor's invoice. Contractor's team response costs shall be collected by the Division from the responsible person(s) before any payment is made to the Contractor. Contractor agrees to cooperate with the Division as is reasonable and necessary in order to allow the Division to bill third parties and pursue cost recovery actions.

- 4.5 **Approval:** The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1 at the REACT. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic incident. Contractor may deploy structural collapse team

members directly to an ongoing catastrophic incident at the request of the Division. Contractor agrees to make reasonable and good faith efforts to minimize Responsible Party and/or Division expenses.

- 4.6 **Retirement System Status and Tax Payments:** Contractor and its employees are not entitled under this Agreement to Division contribution for any Public Employees Retirement Withholding System benefit(s). Contractor shall be responsible for payment/withholding of any applicable federal, Social Security and State taxes.
- 4.7 **Worker's Compensation:** A member of the Statewide Structural Collapse Team who is acting under the scope of this Agreement is an employee of the State for purposes of Worker's Compensation under §323.72(4) of the Wisconsin Statutes.
- 4.8 **Payment of Contractor's Obligations:** Contractor agrees to make payment promptly, as just, due, and payable to all persons furnishing services, equipment or supplies to Contractor. If Contractor fails, neglects or refuses to pay any such claims as they become due and for which the Division may be held liable, the proper officer(s) representing the Division, after ascertaining that the claims are just, due, and payable, may, but shall not be required to, pay the claim and charge the amount of the payment against funds due Contractor under this Agreement. The payment of claims in this manner shall not relieve Contractor of any duty with respect to any unpaid claims.
- 4.9 **Dual Payment:** Contractor shall not be compensated for work performed under this Agreement by any state agency or person(s) responsible for causing a catastrophic incident emergency except as approved and authorized under this Agreement.

5.0 Liability and Indemnity

- 5.1 **Scope:** During operations authorized by this Agreement, Contractor and members of the Statewide Structural Collapse Team shall be agents of the State of Wisconsin for purposes of §895.46(1), Stats. For the purposes of this Article, operations means activities, including travel, directly related to a particular emergency response involving a catastrophic incident by the Statewide Structural Collapse Team. Operations also include advanced training activities provided under this Agreement to members of WI-TF1, but does not include travel to and from the training.
- 5.2 **Civil liability exemption; regional emergency response teams and their sponsoring agencies:** Under §895.483(4), Wis. Stats., a regional structural collapse team, a member of such a team, and a local agency, as defined in s. §323.70 (1) (b), that contracts with the division of emergency management in the department of military affairs for the provision of a regional structural collapse team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under §323.72 (1), Stats.
- 5.3 **Contractor Indemnification of State:** When acting as other than an agent of the Division under this Agreement, and when using the State's or Division's vehicles or equipment, the Contractor shall indemnify, defend and hold harmless the State, Division,

its officers, Divisions, agents, employees, and members from all claims, suits or actions of any nature arising out of the activities or omissions of Contractor, its officers, subcontractors, agents or employees.

6.0 Insurance Provisions

- 6.1 **Public Liability and Property Damage Insurance:** Contractor shall maintain, at its own expense, and keep in effect during the term of this Agreement, commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage is one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program or alternative funding source(s), attached hereto as "Exhibit B". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.2 **Automobile Liability:** Contractor and team members shall obtain and keep in effect motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. This coverage may be written in combination with the commercial liability, bodily injury and property damage insurance mentioned in Subsection 6.1. Minimum coverage limits shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program, or alternative funding source(s) attached hereto as "Exhibit B". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.3 **Notice of Cancellation or Change:** Contractor agrees that there shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the Division.
- 6.4 **Certificate(s) of Insurance:** As evidence of the insurance coverage required by this Agreement, Contractor shall provide an insurance certificate indicating this coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of this Agreement.

7.0 Standard Contract Terms, Conditions and Requirements

- 7.1 **Disclosure of Independence and Relationship:** Contractor certifies that no relationship exists between the Statewide Structural Collapse Team, the State or the Division that interferes with fair competition or is a conflict of interest, and no relationship exists between the team and another person or organization that constitutes a conflict of interest

with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interest of the State.

Contractor agrees as part of this contract for services that during performance of this contract, they will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

- 7.2 **Dual Employment:** §16.417 of the Wisconsin Statutes, prohibits an individual who is a state employee or who is retained as a consultant full-time by a state agency from being retained as a consultant by the same or another agency where the individual receives more than \$5,000 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.
- 7.3 **Employment:** Contractor will not engage the service of any person or persons now employed by the State, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and the Department of Military Affairs and the Division.
- 7.4 **Conflict of interest:** Private and non-profit corporations are bound by §180.0831 and §181.225 Wis. Stats., regarding conflicts of interest by directors in the conduct of state contracts.
- 7.5 **Recordkeeping and Record Retention:** The Contractor shall establish and maintain adequate records of all expenditures incurred under the Agreement. All records must be kept in accordance with generally accepted accounting principles, and be consistent with federal and state laws and local ordinances. The Division, the federal government, and their duly authorized representatives shall have the right to audit, review, examine, copy and transcribe any pertinent records or documents relating to any contract resulting from this Agreement held by Contractor. The Contractor shall retain all documents applicable to the Agreement for a period of not less than three (3) years after the final payment is made or longer where required by law.
- 7.6 **Hold Harmless:** The Division of Emergency Management, the Department of Military Affairs, and the State of Wisconsin shall be held harmless in any disputes the team and/or fire department may have with their employees. This shall include, but not be limited to, charges of discrimination, harassment, and discharge without just cause.
- 7.7 **Termination of Agreement:** The Division and/or Contractor may terminate this Agreement at any time **for cause** by delivering one hundred twenty (120) days written notice to the other Party. Upon termination, the Division's liability will be limited to the pro rata cost of the training costs provided under Subsection 4.1 as of the date of termination plus expenses incurred with the prior written approval of the Division. Upon termination, Contractor will refund to the Division within one hundred twenty (120) days of said

termination pro rata training payments made hereunder by the Division to the Contractor.

Contractor may terminate this Agreement **at will** by delivering one hundred twenty (120) days written notice to the Division. In the event the Contractor terminates this Agreement for any reason whatsoever, it will refund to the Division within one hundred twenty (120) days of said termination all payments made hereunder by the Division for training costs, under Subsection 4.1, provided to the Contractor for the contract year in which the termination occurs based in proportion to the number of days remaining in the contract year.

The Division may terminate this Agreement **at will** effective upon delivery of written notice to the Contractor, under any of the following conditions:

- (1) If funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for training, the Agreement may be modified to accommodate a reduction or increase in funds.
- (2) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments by this Agreement.
- (3) If any license or certification required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Upon termination, the Division's liability under Section 5.0 will be limited to events occurring during the term of this Agreement.

- 7.8 **Cancellation:** The State of Wisconsin reserves that right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the Contractor to comply with the terms, conditions, and specifications of this Agreement.
- 7.9 **Prime Contractor and Minority Business Subcontractors:** In the event Contractor subcontracts for supplies and/or services, any subcontractor must abide by all terms and conditions of the Agreement. The Contractor shall be responsible for contract performance whether or not subcontractors are used.

Contractor is encouraged to purchase services and supplies when/if applicable from minority businesses certified by the Wisconsin Department of Development, Bureau of Minority Business Development.

Contractor shall file with the Department of Military Affairs quarterly reports of purchases of such supplies and services necessary for the implementation of this Agreement.

- 7.10 **Executed Contract to Constitute Entire Agreement:** The contents of the Agreement including Exhibits and additional terms agreed to, in writing, by the Division and the Contractor shall become a part of the Agreement herein. The written Agreement with referenced parts and attachments shall constitute the entire Agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to, in writing, by the contracting authority.
- 7.11 **News Releases:** News releases pertaining to the negotiation of this Agreement shall not be made without the prior approval of the Division.
- 7.12 **Applicable Law:** This Agreement shall be governed under the laws of the State of Wisconsin. The Contractor and State shall at all times comply with and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this Agreement and which may in any manner affect the work or its conduct.
- 7.13 **Assignment:** No right or duty, in whole or in part, of the Contractor under this Agreement may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 7.14 **Successors in Interest:** The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
- 7.15 **Force Majeure:** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of God and/or war which is beyond that party's reasonable control.
- 7.17 **Notifications:** Contractor shall immediately report by telephone and in writing any demand, request, or occurrence that reasonably may give rise to a claim against the State, its officers, Divisions, agents, employees and members. Such reports shall be directed to:

ATTN: Administrator
 Division of Emergency Management
 DMA Wisconsin
 PO Box 7865
 Madison, WI 53707-7865
 Telephone #: (608) 242-3232
 FAX #: (608) 242-3247

Copies of such written reports shall also be sent to:

ATTN: Office of Legal Counsel, WING-LGL
 WI Dept. of Military Affairs
 PO Box 8111
 Madison, WI 53708-8111

- 7.17 **Severability:** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 7.18 **Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of Division and Contractor.
- 7.19 **Approval Authority:** Contractor's representative(s) certify by their signature herein that he or she, as the case may be, has the necessary and lawful authority to enter into contracts and agreements on behalf of the local government entity.
- 7.20 **Insufficient Funds:** The obligation of the Contractor under this Agreement is contingent upon the availability and allotment of funds by the Division to Contractor and Contractor may, upon one hundred twenty (120) days prior written notice, terminate this contract if funds are not available.
- 7.21 **No Waiver:** No failure to exercise, and no delay in exercising, any right, power or remedy, including payment, hereunder, on the part of the Division, State, or Contractor shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall effect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the Division, State or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
- 7.22 **Construction of Agreement:** This Agreement is intended to be solely between the parties hereto. No part of the Agreement shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 7.23 **Disparity:** In the event of a discrepancy, difference or disparity in the terms, conditions or language contained any previous correspondence from the Division, it is agreed between the parties that the language in this Agreement shall prevail.

Approving Signatures:

ON BEHALF OF THE DIVISION OF EMERGENCY MANAGEMENT (DIVISION)

Dated this ____ day of _____, 2016

Brian M. Satula, Division Administrator

Attachment: Structural Collapse K Antigo 2017-2018 (1234 : Structural Collapse Contract)

On Behalf of the City of Antigo
A Municipal Corporation

Dated this ____ day of _____, 201__

Signature: _____

Printed Name: Bill Brandt

Title: Mayor

Address: Antigo City Hall, 700 Edison Street

City/State: Antigo, WI Zip: 54409

On Behalf of the City of Antigo

Dated this ____ day of _____, 201__

Signature: _____

Printed Name: Kaye Matucheski

Title: Clerk-Treasurer

Address: Antigo City Hall, 700 Edison Street

City/State: Antigo, WI Zip: 54409

On Behalf of the City of Antigo

Dated this ____ day of _____, 201__

Signature: _____

Printed Name: Mark Desotell, P.E.

Title: Director of Administrative Services

Address: Antigo City Hall, 700 Edison Street

City/State: Antigo, WI Zip: 54409

On Behalf of the City of Antigo Fire Department

Dated this ____ day of _____, 201__

Signature: _____

Printed Name: Jon Petroskey

Title: Fire Chief

Address: 700 Edison Street

City/State: Antigo, WI Zip: 54409

Approved as to form:

Dated this ____ day of _____, 201__

Signature: _____

Printed Name: Michael B. Winter

Title: City Attorney

Address: 835 Fifth Avenue

City/State: Antigo, WI Zip: 54409-7682

EXHIBIT A

Standard Terms And Conditions (Request For Bids / Proposals)

- 1.0 **SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 **DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 **QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 **QUANTITIES:** The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 **DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 **PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.
 - 6.1 Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
 - 6.2 Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.
 - 6.3 In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
- 7.0 **UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.
- 8.0 **ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.
- 9.0 **METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.
- 10.0 **ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.
- 11.0 **PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

A good faith dispute creates an exception to prompt payment.
- 12.0 **TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 13.0 **GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
- 14.0 **ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements

are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

- 15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.
- 16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
- 17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 18.0 WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.
- 19.1** Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions

on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

- 19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.
- 20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
- 23.3** The state reserves the right to require higher or lower limits where warranted.
- 24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.

- 25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
- 26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities.
- Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.
- 27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- 27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.
- 27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.
- 28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.
- 29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.
- 30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.
- 32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.
- 33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
- 34.0 WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.
- 35.0 FORCE MAJEURE:** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.



**EXTENDED CONTRACT FOR
STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS**

JANUARY 1, 2017⁵ THROUGH DECEMBER 31, 2018⁶

Between

**STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
DIVISION OF EMERGENCY MANAGEMENT**

And

CITY OF _____, WISCONSIN

DATE: December 31, 2018⁴

**EXTENDED CONTRACT FOR STATEWIDE STRUCTURAL COLLAPSE
TEAM MEMBERS**

1.0 General Contract Information

1.1 Parties: This extended contract is between the State of Wisconsin, Department of Military Affairs, Division of Emergency Management (hereinafter "Division") and the _____ Fire Department, City of _____, Wisconsin (hereinafter "Contractor") for the provision of Statewide Structural Collapse Team members as described herein and authorized under 2009 Wisconsin Act 43, as codified in §323.72 of the Wisconsin Statutes and as further amended.

1.2 Recitals: WHEREAS, in order to protect life and property against the dangers of emergencies involving a catastrophic incident structural-collapse, the Division may assign and make available for use in any county, city, or district, a Statewide Structural Collapse Team.

WHEREAS, the Division desires to enter into this Agreement with Contractor for the provision of team members to serve on one of three statewide platoons comprising the Statewide Structural Collapse Team, and Contractor desires to enter into this Agreement.

HOWEVER, the parties expressly recognize and attest by this Agreement that neither party intends to create or to assume fiduciary responsibilities to provide for the containment, cleanup, repair, restoration and investigation of the environment (air, land and water) in a structural collapse incident involving a hazardous substance, which is the responsibility and shall remain the sole obligation of the Wisconsin Department of Natural Resources under §§292.11 and 323.60(4), Wis. Stats.

1.3 Contract Term: This Agreement shall continue for 2 years commencing January 1, 2017~~5~~ through December 31, 2018~~6~~.

2.0 Definitions

2.1 Definitions: The following definitions are used throughout this Agreement:

Agreement means this Contract, together with the Exhibits. Exhibits include the following:

Exhibit A	Standard Terms and Conditions
Exhibit B	Training Costs
Exhibit BC	Certificate of Protection in Lieu of an Insurance Policy (as Applicable to Contractor)

State means the State of Wisconsin.

Department means the State of Wisconsin, Department of Military Affairs.

Division means the Division of Emergency Management.

Contractor means the City of _____ Fire Department, City of _____, Wisconsin by which Statewide Structural Collapse Team members will be provided under this Agreement. Under §323.72(1), Stats., the Division may only contract with local agencies as defined in §323.70(1)(b), Stats.

Local Agency has the meaning under §323.70(1)(b), Stats.

OJA means the State of Wisconsin, Office of Justice Assistance.

Responsible Party means the person(s), as defined in §323.72(3)(a) and (b), Stats., who possessed or controlled a structure that was involved in the structural collapse or the person who caused the structural collapse which caused the emergency to which Contractor has responded.

Regional Emergency All-Climate Training Center (REACT) is a training facility owned by the State of Wisconsin, Department of Military Affairs and operated by the Division of Emergency Management.

Structural collapse means an incident involving all types of construction with emergency response activities that include expertise in 1) evaluating existing and potential conditions at structural collapse incidents; 2) recognizing unique collapse or failure hazards; 3) conducting search operations intended to locate victims trapped inside and beneath collapse debris; 4) accessing victims trapped inside and beneath collapse debris; 5) performing extrication operations involving packaging, treating, and removing victims trapped within and beneath collapse debris; and 6) stabilizing the structure. Structural collapse may include urban search and rescue.

Structural Collapse Team Member means an individual provided by Contractor serving as a team member on one of three platoons comprising the Statewide Structural Collapse Team to provide statewide structural collapse emergency response that meets the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended.

Statewide Structural Collapse Team Platoon means a component of the Statewide Structural Collapse Team made up of team members provided by the Contractor and/or designated employees of the Contractor who are expected to respond to, control, and/or stabilize the actual or potential incident structural collapse.

Urban Search and Rescue (US&R) involves the location, rescue (extrication), and initial medical stabilization of victims trapped in confined spaces. Structural collapse is most often the cause of victims being trapped, but victims may also be trapped in transportation accidents, mines and collapsed trenches. Urban Search and Rescue is considered a "multi-hazard" discipline, as it may be needed for a variety of emergencies or disasters, including earthquakes, hurricanes, typhoons, storms and tornadoes, floods, dam failures, technological accidents, terrorist activities, and hazardous materials releases.

Urban Search and Rescue Task Force (US&R Task Force) is a team of individuals comprised of firefighters, engineers, medical professionals, canine/handler teams and incident managers with highly specialized training in urban search and rescue.

WI Task Force 1 Urban Search & Rescue (WI-TF1) means the name of the Statewide Structural Collapse Team.

Comment [MR1]: This agency is no longer in existence. These responsibilities have been transferred to the Division.

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3.0 Statement of Work

- 3.1 **Services to be provided by Contractor:** During the term of this Agreement, the Contractor agrees to provide statewide structural collapse team members for the three

statewide platoons comprising the Statewide Structural Collapse Team (also known as ~~WI-TF1-Taskforce 1~~).

Contractor's response activities under this Agreement shall be limited to emergency operations, reporting and documentation of activities arising from catastrophic structural collapse incidents which threaten life, property and/or the environment. Contractor shall not provide under this Agreement any services with respect to the sampling, testing, analysis, treatment, removal, remediation, recovery, packaging, monitoring, transportation, movement of hazardous materials, cleanup, storage and disposal of hazardous materials except as these may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous material or in stabilizing the emergency response incident, as determined by the Contractor.

~~WI-TF1-Taskforce 1~~ shall establish safety perimeters at or near sites and vessels. ~~WI-TF1 Taskforce 1~~ shall not be required to locate underground utilities, insure appropriate traffic control services, conduct hydrological investigations and analysis, or provide testing, removal and disposal of underground storage tanks at or near the emergency response incident to which the Contractor is dispatched.

The Division and Contractor make no representations to third parties with regard to the ultimate outcome of the urban search and rescue structural-collapse services to be provided, but Contractor and Division shall respond to the best of its abilities, subject to the terms of this Agreement.

- 3.2 **Performance Conditions:** Contractor acknowledges that it shall demonstrate to the Division that its employees designated as structural collapse teams members, urban search and rescue structural-collapse equipment, and associated vehicles meet or exceed applicable NFPA training standards and any regulatory requirements.
- 3.3 **Personnel:** Contractor shall provide ~~_____ ()~~ trained, medically-monitored, qualified and competent personnel as identified by Contractor and designated by the Division as is reasonably necessary to operate within the safety levels of a statewide structural collapse team. Contractor understands and agrees that identified team members will meet applicable training standards and certifications at the time they are identified by Contractor to serve as members of ~~WI-TF1~~ the Statewide Structural Collapse Team.
- 3.4 **Vehicles and Equipment:** If the Division requests vehicles and equipment from the Contractor, it shall limit its activities to that which can be safely accomplished within the technical limitations of the available vehicles and equipment. Contractor may retain urban search and rescue structural-collapse equipment and vehicles provided by grant funding through ~~the Division~~ OJA for Contractor's local use, however, Contractor agrees that in the event of multiple responses, said equipment which is already not committed to a prior response shall be used on a priority basis to respond to ~~an~~ structural-collapse incident.
- 3.5 **Vehicle and Equipment Use Limitations:** This Agreement in no way limits the Contractor from responding with urban search and rescue structural-collapse vehicles,

equipment and supplies under local authority, mutual aid agreements, or other contracts under local authority.

- 3.6 **Response Procedures and Limitations:** Contractor recognizes that its obligations under this Agreement are paramount to the State of Wisconsin. Contractor agrees that if local fire response obligations in Contractor's own jurisdiction create limits or unavailable resources, Contractor will seek aid from local jurisdictions to assist in local fire response obligations in Contractor's own jurisdiction.

Contractor and Division agree that WI-TF1 or components of the task force may be utilized for any incident for which its members are trained and qualified, including wide area search incidents. It is recognized that the Statewide Structural Collapse team created under § 323.72 Wis. Stats. is organized as an Urban Search and Rescue Task Force and its capabilities are not limited to structural collapse.

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Contractor's obligation to provide services hereunder shall arise, with respect to specific response actions, upon receipt of an emergency response request pursuant to Standard Operating Guidelines provided in Subsection 3.8 herein.

- 3.7 **Right of Refusal:** If, on occasion, a response under this Agreement would temporarily place a verifiable undue burden on the Contractor because Contractor's resources are otherwise inadequate or unavailable and mutual aid is unavailable, then if notice has been provided to the Division, the Contractor may decline a request for a Statewide Structural Collapse Team emergency response.

- 3.8 **Standard Operating Guidelines:** Contractor and Division agree that WI-TF1the Statewide Structural Collapse team operations will be conducted in accordance with Standard Operating Guidelines and "Call-Out Procedure" that will be mutually approved by the parties to this Agreement. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic incidentstructural collapse. The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1taskforce 4 at the REACT.

4.0 Training Costs and Reimbursement for Emergency Response

There are two types of Contractor costs under this Agreement: (1) Required Training Costs, and (2) Team Response Costs. Each of these costs are discussed more fully below.

- 4.1 **Required Training Costs:** Under §323.72(1), Stats., team personnel shall be trained and certified to the standards under the National Fire Protection Association standards NFPA 1001 and 1670, as further amended. As a condition of this Agreement, Contractor agrees that all team personnel shall attend urban search and rescuestructural-collapse training and refresher training at the Regional Emergency All-Climate Training Center (REACT), which is owned and operated by the Division or at a location pre-approved in writing by the Division. The urban search and rescuestructural-collapse and refresher training shall be a minimum of eighteen (18) ~~thirty-two (32)~~ hours per team member per annum. Additional

specialty training is available at REACT. All team personnel attending training at REACT shall be in a non-duty status with Contractor. To facilitate planning for required training, the REACT training schedule shall be posted at minimum of twelve months in advance, ~~with the exception of the first contract period. This does not include specialized training which may be made available to team personnel with less advance notice. Required urban search and rescue training will be in accordance with the WI-TF1 Attendance Policy.~~ Any team personnel who have not attended or completed the required training will not be allowed to respond under the scope of this Agreement. Team personnel shall also keep current any state required certifications. The Division shall maintain all urban search and rescue structural-collapse and refresher training records on each team member for training received at REACT.

- 4.2 **Team Response Costs and Reimbursement:** Under §323.72(2), Stats., the Division shall reimburse the Statewide Structural Collapse Team for costs incurred by the team in responding to an emergency involving a structural collapse incident ~~if the team determines that a structural collapse emergency requiring a response existed.~~ Reimbursement is limited to amounts collected from the responsible person(s) as defined in §323.72(3) (a) and (b), Stats. Reimbursement under this subsection is available only if the Statewide Structural Collapse Team has identified the person who is required to reimburse the Division and provided that information to the Division. Further, Contractor shall comply with all Division-approved reimbursement procedures and/or duly enacted Administrative Rule(s).

Comment [MR2]: This is the statute verbatim and I cannot change the "structural collapse" terminology in this section

A person shall reimburse the Division for costs incurred by the Statewide Structural Collapse Team in responding to an emergency if the team determines that an emergency requiring the team's response existed and that one of the following conditions applies:

- (1) The person possessed or controlled a structure that was involved in the structural collapse.
- (2) The person caused the structural collapse.

In the event a responsible person has been identified, Contractor shall be reimbursed for reasonable and necessary Team member response costs incurred in responding to a catastrophic structural collapse incident under this Agreement. Such Team response costs may include, but are not limited to:

- (1) Reimbursement for use of Vehicle(s) and Apparatus: Contractor shall be reimbursed for the approved use of its vehicles and equipment at FEMA-established rates.
- (2) Personnel Expenses: Contractor's team response personnel expenses which are approved and authorized under this Agreement are reimbursable at \$45.00 per hour per deployed team member. During an emergency deployment, this shall be calculated as portal to portal.

(3) Backfill expenses: Contractor's personnel backfill expenses to cover deployed team members are reimbursable at the Contractor's actual cost.

(4) Emergency Expenses: Contractor's necessary and reasonable emergency expenses related to services rendered under this Agreement are reimbursable. All such expenses must be based on actual expenditures and fully documented by the Contractor. The Division reserves the right to deny any reimbursement of unjustifiable Contractor expenditures.

- 4.3 **Minimum aximum Contract Payment for Training Costs**: This Agreement shall have a minimum maximum contract payment of \$_____ per annum for training costs as described in "Exhibit B" to this Agreement. ~~This calculation is based upon \$45 per hour for the minimum of eighteen (18) thirty-two (32) hours per team member per annum in accordance with the WI-TF1 Attendance Policy.~~ Payment for training costs will be made to Contractor on a quarterly basis. The payment will be determined by the actual hours of Division-approved training received by Contractor's team members during that quarter multiplied by \$45 per hour. In addition to the minimum maximum contract payment, the Division will pay for enhanced training for specialty job assignments for team members as well as logistical and administrative support as determined and approved in advance by the Division. The minimum maximum contract payment for training does not, however, include Contractor's team response costs as specified in Subsection 4.2 of this Agreement. Contractor's personnel backfill expenses to cover team members in training status are not reimbursable.

No additional Contractor payment or reimbursement shall be paid or any additional demands placed on Contractor under this Agreement unless otherwise specifically agreed to by the Division and the Contractor, and upon written amendment to this Agreement. The Division's reimbursement(s) shall be full payment for services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the services authorized under this Agreement. Acceptance of payment by the Contractor shall operate as a release of the Division of all claims by Contractor for reimbursement of team response costs except where partial payment has been made due to limitations as set forth above.

- 4.4 **Billing System for Division Reimbursement of Team Response Costs**: Contractor will provide an invoice for its team member response costs to the Division within ten (10) working days of the response. The Division will not bill responsible person(s) unless it receives an invoice from the Contractor. Contractor's claim for reimbursement shall contain such documentation as is necessary to support the Division's cost-recovery operations and financial audits. The Division agrees to bill responsible person(s) for the WI-TF1 Statewide Structural Collapse Team response costs. Team response costs include such items as vehicle and equipment use, expendables and personnel costs. In addition, Division administrative costs may be billed as part of the emergency costs. Further, Contractor shall comply with all Division-approved procedures and/or duly enacted Administrative Rule(s).

The Division shall bill identified responsible person(s) within sixty (60) days of receipt of

Contractor's invoice. Contractor's team response costs shall be collected by the Division from the responsible person(s) before any payment is made to the Contractor. Contractor agrees to cooperate with the Division as is reasonable and necessary in order to allow the Division to bill third parties and pursue cost recovery actions.

- 4.5 **Approval:** The Division shall notify Contractor of the need for structural collapse team member deployment and the need for mustering a platoon of WI-TF1-Taskforce 4 at the REACT. Contractor agrees and understands that it shall not self deploy structural collapse teams members to a catastrophic ~~incident~~ structural collapse. Contractor may deploy structural collapse team members directly to an ongoing catastrophic ~~incident~~ structural collapse event at the request of the Division. Contractor agrees to make reasonable and good faith efforts to minimize Responsible Party and/or Division expenses.
- 4.6 **Retirement System Status and Tax Payments:** Contractor and its employees are not entitled under this Agreement to Division contribution for any Public Employees Retirement Withholding System benefit(s). Contractor shall be responsible for payment/withholding of any applicable federal, Social Security and State taxes.
- 4.7 **Worker's Compensation:** A member of the Statewide Structural Collapse Team who is acting under the scope of this Agreement is an employee of the State for purposes of Worker's Compensation under §323.72(4) of the Wisconsin Statutes.
- 4.8 **Payment of Contractor's Obligations:** Contractor agrees to make payment promptly, as just, due, and payable to all persons furnishing services, equipment or supplies to Contractor. If Contractor fails, neglects or refuses to pay any such claims as they become due and for which the Division may be held liable, the proper officer(s) representing the Division, after ascertaining that the claims are just, due, and payable, may, but shall not be required to, pay the claim and charge the amount of the payment against funds due Contractor under this Agreement. The payment of claims in this manner shall not relieve Contractor of any duty with respect to any unpaid claims.
- 4.9 **Dual Payment:** Contractor shall not be compensated for work performed under this Agreement by any state agency or person(s) responsible for causing a catastrophic ~~incident~~ structural collapse emergency except as approved and authorized under this Agreement.

Comment [MR3]: This is verbatim statutory language and cannot be changed.

5.0 Liability and Indemnity

- 5.1 **Scope:** During operations authorized by this Agreement, Contractor and members of the Statewide Structural Collapse Team shall be agents of the State of Wisconsin for purposes of §895.46(1), Stats. For the purposes of this Article, operations means activities, including travel, directly related to a particular emergency response involving a catastrophic ~~incident~~ structural collapse by the Statewide Structural Collapse Team. Operations also include advanced training activities provided under this Agreement to members of WI-TF1 the Statewide Structural Collapse Team, but does not include travel to and from the training.

- 5.2 **Civil liability exemption; regional emergency response teams and their sponsoring agencies:** Under §895.483(4), Wis. Stats., a regional structural collapse team, a member of such a team, and a local agency, as defined in s. §323.70 (1) (b), that contracts with the division of emergency management in the department of military affairs for the provision of a regional structural collapse team, are immune from civil liability for acts or omissions related to carrying out responsibilities under a contract under §323.72 (1), Stats.

Comment [MR4]: This is statutory language and cannot be changed.

- 5.3 **Contractor Indemnification of State:** When acting as other than an agent of the Division under this Agreement, and when using the State's or Division's vehicles or equipment, the Contractor shall indemnify, defend and hold harmless the State, Division, its officers, Divisions, agents, employees, and members from all claims, suits or actions of any nature arising out of the activities or omissions of Contractor, its officers, subcontractors, agents or employees.

6.0 Insurance Provisions

- 6.1 **Public Liability and Property Damage Insurance:** Contractor shall maintain, at its own expense, and keep in effect during the term of this Agreement, commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage is one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program or alternative funding source(s), attached hereto as "Exhibit BG". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.2 **Automobile Liability:** Contractor and team members shall obtain and keep in effect motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this Agreement. This coverage may be written in combination with the commercial liability, bodily injury and property damage insurance mentioned in Subsection 6.1. Minimum coverage limits shall be one million (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.

If Contractor is self-insured or uninsured, a Certificate of Protection in Lieu of an Insurance Policy shall be submitted to the Division certifying that Contractor is protected by a Self-Funded Liability and Property Program, or alternative funding source(s) attached hereto as "Exhibit BG". The Certificate is required to be presented prior to commencement of this Agreement.

- 6.3 **Notice of Cancellation or Change:** Contractor agrees that there shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the Division.

- 6.4 **Certificate(s) of Insurance:** As evidence of the insurance coverage required by this

Agreement, Contractor shall provide an insurance certificate indicating this coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of this Agreement.

7.0 Standard Contract Terms, Conditions and Requirements

- 7.1 Disclosure of Independence and Relationship:** Contractor certifies that no relationship exists between the Statewide Structural Collapse Team, the State or the Division that interferes with fair competition or is a conflict of interest, and no relationship exists between the team and another person or organization that constitutes a conflict of interest with respect to a state contract. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interest of the State.

Contractor agrees as part of this contract for services that during performance of this contract, they will neither provide contractual services nor enter into any agreement to provide services to a person or organization that is regulated or funded by the contracting agency or has interests that are adverse to the contracting agency. The Department of Administration may waive this provision, in writing, if those activities of the Contractor will not be adverse to the interests of the State.

- 7.2 Dual Employment:** §16.417 of the Wisconsin Statutes, prohibits an individual who is a state employee or who is retained as a consultant full-time by a state agency from being retained as a consultant by the same or another agency where the individual receives more than \$5,000 as compensation. This prohibition applies only to individuals and does not include corporations or partnerships.
- 7.3 Employment:** Contractor will not engage the service of any person or persons now employed by the State, including any department, commission, or board thereof, to provide services relating to this Agreement without the written consent of the employer of such person or persons and the Department of Military Affairs and the Division.
- 7.4 Conflict of interest:** Private and non-profit corporations are bound by §180.0831 and §181.225 Wis. Stats., regarding conflicts of interest by directors in the conduct of state contracts.
- 7.5 Recordkeeping and Record Retention:** The Contractor shall establish and maintain adequate records of all expenditures incurred under the Agreement. All records must be kept in accordance with generally accepted accounting principles, and be consistent with federal and state laws and local ordinances. The Division, the federal government, and their duly authorized representatives shall have the right to audit, review, examine, copy and transcribe any pertinent records or documents relating to any contract resulting from this Agreement held by Contractor. The Contractor shall retain all documents applicable to the Agreement for a period of not less than three (3) years after the final payment is made or longer where required by law.

- 7.6 **Hold Harmless:** The Division of Emergency Management, the Department of Military Affairs, and the State of Wisconsin shall be held harmless in any disputes the team and/or fire department may have with their employees. This shall include, but not be limited to, charges of discrimination, harassment, and discharge without just cause.
- 7.7 **Termination of Agreement:** The Division and/or Contractor may terminate this Agreement at any time **for cause** by delivering one hundred twenty (120) days written notice to the other Party. Upon termination, the Division's liability will be limited to the pro rata cost of the training costs provided under Subsection 4.1 as of the date of termination plus expenses incurred with the prior written approval of the Division. Upon termination, Contractor will refund to the Division within one hundred twenty (120) days of said termination pro rata training payments made hereunder by the Division to the Contractor.

Contractor may terminate this Agreement **at will** by delivering one hundred twenty (120) days written notice to the Division. In the event the Contractor terminates this Agreement for any reason whatsoever, it will refund to the Division within one hundred twenty (120) days of said termination all payments made hereunder by the Division for training costs, under Subsection 4.1, provided to the Contractor for the contract year in which the termination occurs based in proportion to the number of days remaining in the contract year.

The Division may terminate this Agreement **at will** effective upon delivery of written notice to the Contractor, under any of the following conditions:

- (1) If funding from federal, state, or other sources is not obtained and/or continued at levels sufficient to allow for training, the Agreement may be modified to accommodate a reduction or increase in funds.
- (2) If federal or state laws, rules, regulations, or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments by this Agreement.
- (3) If any license or certification required by law or regulation to be held by the Contractor to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

Any termination of the Agreement shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination. Upon termination, the Division's liability under Section 5.0 will be limited to events occurring during the term of this Agreement.

- 7.8 **Cancellation:** The State of Wisconsin reserves that right to cancel any contract in whole or in part without penalty due to non-appropriation of funds or for failure of the Contractor to comply with the terms, conditions, and specifications of this Agreement.
- 7.9 **Prime Contractor and Minority Business Subcontractors:** In the event Contractor

subcontracts for supplies and/or services, any subcontractor must abide by all terms and conditions of the Agreement. The Contractor shall be responsible for contract performance whether or not subcontractors are used.

Contractor is encouraged to purchase services and supplies when/if applicable from minority businesses certified by the Wisconsin Department of Development, Bureau of Minority Business Development.

Contractor shall file with the Department of Military Affairs quarterly reports of purchases of such supplies and services necessary for the implementation of this Agreement.

- 7.10 **Executed Contract to Constitute Entire Agreement:** The contents of the Agreement including Exhibits and additional terms agreed to, in writing, by the Division and the Contractor shall become a part of the Agreement herein. The written Agreement with referenced parts and attachments shall constitute the entire Agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to, in writing, by the contracting authority.
- 7.11 **News Releases:** News releases pertaining to the negotiation of this Agreement shall not be made without the prior approval of the Division.
- 7.12 **Applicable Law:** This Agreement shall be governed under the laws of the State of Wisconsin. The Contractor and State shall at all times comply with and observe all federal and state laws, local laws, ordinances and regulations which are in effect during the period of this Agreement and which may in any manner affect the work or its conduct.
- 7.13 **Assignment:** No right or duty, in whole or in part, of the Contractor under this Agreement may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 7.14 **Successors in Interest:** The provisions of the Agreement shall be binding upon and shall inure to the benefit of the parties to the Agreement and their respective successors and assigns.
- 7.15 **Force Majeure:** Neither party to this Agreement shall be held responsible for delay or default caused by fire, riots, acts of God and/or war which is beyond that party's reasonable control.
- 7.17 **Notifications:** Contractor shall immediately report by telephone and in writing any demand, request, or occurrence that reasonably may give rise to a claim against the State, its officers, Divisions, agents, employees and members. Such reports shall be directed to:

ATTN: Administrator
Division of Emergency Management
DMA Wisconsin
PO Box 7865
Madison, WI 53707-7865

Telephone #: (608) 242-3232
FAX #: (608) 242-3247

Copies of such written reports shall also be sent to:

ATTN: Office of Legal Counsel, WING-LGL
WI Dept. of Military Affairs
PO Box 8111
Madison, WI 53708-8111

- 7.17 **Severability:** If any provision of this Agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected. The rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.
- 7.18 **Amendments:** The terms of this Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of Division and Contractor.
- 7.19 **Approval Authority:** Contractor's representative(s) certify by their signature herein that he or she, as the case may be, has the necessary and lawful authority to enter into contracts and agreements on behalf of the local government entity.
- 7.20 **Insufficient Funds:** The obligation of the Contractor under this Agreement is contingent upon the availability and allotment of funds by the Division to Contractor and Contractor may, upon one hundred twenty (120) days prior written notice, terminate this contract if funds are not available.
- 7.21 **No Waiver:** No failure to exercise, and no delay in exercising, any right, power or remedy, including payment, hereunder, on the part of the Division, State, or Contractor shall operate as a waiver hereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall effect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by the Division, State or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.
- 7.22 **Construction of Agreement:** This Agreement is intended to be solely between the parties hereto. No part of the Agreement shall be construed to add, supplement, amend, abridge, or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.
- 7.23 **Disparity:** In the event of a discrepancy, difference or disparity in the terms, conditions or language contained any previous correspondence from the Division, it is agreed between

the parties that the language in this Agreement shall prevail.

Approving Signatures:

ON BEHALF OF THE DIVISION OF EMERGENCY MANAGEMENT (DIVISION)

Dated this ____ day of _____, 2016

Brian M. Satula, Division Administrator

Attachment: MARKUPS AND REVISIONS 2017-2018 (1234 : Structural Collapse Contract)

EXHIBIT A

Standard Terms And Conditions (Request For Bids / Proposals)

- 1.0 **SPECIFICATIONS:** The specifications in this request are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. The State of Wisconsin shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid bidding alternates to the specifications which may result in rejection of their bid/proposal.
- 2.0 **DEVIATIONS AND EXCEPTIONS:** Deviations and exceptions from original text, terms, conditions, or specifications shall be described fully, on the bidder's/proposer's letterhead, signed, and attached to the request. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the bidders/proposers shall be held liable.
- 3.0 **QUALITY:** Unless otherwise indicated in the request, all material shall be first quality. Items which are used, demonstrators, obsolete, seconds, or which have been discontinued are unacceptable without prior written approval by the State of Wisconsin.
- 4.0 **QUANTITIES:** The quantities shown on this request are based on estimated needs. The state reserves the right to increase or decrease quantities to meet actual needs.
- 5.0 **DELIVERY:** Deliveries shall be F.O.B. destination freight prepaid and included unless otherwise specified.
- 6.0 **PRICING AND DISCOUNT:** The State of Wisconsin qualifies for governmental discounts and its educational institutions also qualify for educational discounts. Unit prices shall reflect these discounts.
 - 6.1 Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea.) as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration.
 - 6.2 Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for ninety (90) calendar days from the date of award. Any increase proposed shall be submitted to the contracting agency thirty (30) calendar days before the proposed effective date of the price increase, and shall be limited to fully documented cost increases to the contractor which are demonstrated to be industrywide. The conditions under which price increases may be granted shall be expressed in bid/proposal documents and contracts or agreements.
 - 6.3 In determination of award, discounts for early payment will only be considered when all other conditions are equal and when payment terms allow at least fifteen (15) days, providing the discount terms are deemed favorable. All payment terms must allow the option of net thirty (30).
- 7.0 **UNFAIR SALES ACT:** Prices quoted to the State of Wisconsin are not governed by the Unfair Sales Act.
- 8.0 **ACCEPTANCE-REJECTION:** The State of Wisconsin reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of the State of Wisconsin.

Bids/proposals MUST be date and time stamped by the soliciting purchasing office on or before the date and time that the bid/proposal is due. Bids/proposals date and time stamped in another office will be rejected. Receipt of a bid/proposal by the mail system does not constitute receipt of a bid/proposal by the purchasing office.
- 9.0 **METHOD OF AWARD:** Award shall be made to the lowest responsible, responsive bidder unless otherwise specified.
- 10.0 **ORDERING:** Purchase orders or releases via purchasing cards shall be placed directly to the contractor by an authorized agency. No other purchase orders are authorized.
- 11.0 **PAYMENT TERMS AND INVOICING:** The State of Wisconsin normally will pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order including reference to purchase order number and submittal to the correct address for processing.

A good faith dispute creates an exception to prompt payment.
- 12.0 **TAXES:** The State of Wisconsin and its agencies are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below.

The State of Wisconsin, including all its agencies, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. However, it is exempt from payment of Wisconsin sales or use tax on its purchases. The State of Wisconsin may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Contractors performing construction activities are required to pay state use tax on the cost of materials.
- 13.0 **GUARANTEED DELIVERY:** Failure of the contractor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the contractor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include the administrative costs.
- 14.0 **ENTIRE AGREEMENT:** These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request except where special requirements

are stated elsewhere in the request; in such cases, the special requirements shall apply. Further, the written contract and/or order with referenced parts and attachments shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the contracting authority.

- 15.0 APPLICABLE LAW AND COMPLIANCE:** This contract shall be governed under the laws of the State of Wisconsin. The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. The State of Wisconsin reserves the right to cancel this contract if the contractor fails to follow the requirements of s. 77.66, Wis. Stats., and related statutes regarding certification for collection of sales and use tax. The State of Wisconsin also reserves the right to cancel this contract with any federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.
- 16.0 ANTITRUST ASSIGNMENT:** The contractor and the State of Wisconsin recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Wisconsin (purchaser). Therefore, the contractor hereby assigns to the State of Wisconsin any and all claims for such overcharges as to goods, materials or services purchased in connection with this contract.
- 17.0 ASSIGNMENT:** No right or duty in whole or in part of the contractor under this contract may be assigned or delegated without the prior written consent of the State of Wisconsin.
- 18.0 WORK CENTER CRITERIA:** A work center must be certified under s. 16.752, Wis. Stats., and must ensure that when engaged in the production of materials, supplies or equipment or the performance of contractual services, not less than seventy-five percent (75%) of the total hours of direct labor are performed by severely handicapped individuals.
- 19.0 NONDISCRIMINATION / AFFIRMATIVE ACTION:** In connection with the performance of work under this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in s. 51.01(5), Wis. Stats., sexual orientation as defined in s. 111.32(13m), Wis. Stats., or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the contractor further agrees to take affirmative action to ensure equal employment opportunities.
- 19.1** Contracts estimated to be over fifty thousand dollars (\$50,000) require the submission of a written affirmative action plan by the contractor. An exemption occurs from this requirement if the contractor has a workforce of less than fifty (50) employees. Within fifteen (15) working days after the contract is awarded, the contractor must submit the plan to the contracting state agency for approval. Instructions

on preparing the plan and technical assistance regarding this clause are available from the contracting state agency.

- 19.2** The contractor agrees to post in conspicuous places, available for employees and applicants for employment, a notice to be provided by the contracting state agency that sets forth the provisions of the State of Wisconsin's nondiscrimination law.
- 19.3** Failure to comply with the conditions of this clause may result in the contractor's becoming declared an "ineligible" contractor, termination of the contract, or withholding of payment.
- 20.0 PATENT INFRINGEMENT:** The contractor selling to the State of Wisconsin the articles described herein guarantees the articles were manufactured or produced in accordance with applicable federal labor laws. Further, that the sale or use of the articles described herein will not infringe any United States patent. The contractor covenants that it will at its own expense defend every suit which shall be brought against the State of Wisconsin (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits recoverable in any such suit.
- 21.0 SAFETY REQUIREMENTS:** All materials, equipment, and supplies provided to the State of Wisconsin must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards.
- 22.0 WARRANTY:** Unless otherwise specifically stated by the bidder/proposer, equipment purchased as a result of this request shall be warranted against defects by the bidder/proposer for one (1) year from date of receipt. The equipment manufacturer's standard warranty shall apply as a minimum and must be honored by the contractor.
- 23.0 INSURANCE RESPONSIBILITY:** The contractor performing services for the State of Wisconsin shall:
- 23.1** Maintain worker's compensation insurance as required by Wisconsin Statutes, for all employees engaged in the work.
- 23.2** Maintain commercial liability, bodily injury and property damage insurance against any claim(s) which might occur in carrying out this agreement/contract. Minimum coverage shall be one million dollars (\$1,000,000) liability for bodily injury and property damage including products liability and completed operations. Provide motor vehicle insurance for all owned, non-owned and hired vehicles that are used in carrying out this contract. Minimum coverage shall be one million dollars (\$1,000,000) per occurrence combined single limit for automobile liability and property damage.
- 23.3** The state reserves the right to require higher or lower limits where warranted.
- 24.0 CANCELLATION:** The State of Wisconsin reserves the right to cancel any contract in whole or in part without penalty due to nonappropriation of funds or for failure of the contractor to comply with terms, conditions, and specifications of this contract.

- 25.0 VENDOR TAX DELINQUENCY:** Vendors who have a delinquent Wisconsin tax liability may have their payments offset by the State of Wisconsin.
- 26.0 PUBLIC RECORDS ACCESS:** It is the intention of the state to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities.
- Bid/proposal openings are public unless otherwise specified. Records may not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract.
- 27.0 PROPRIETARY INFORMATION:** Any restrictions on the use of data contained within a request, must be clearly stated in the bid/proposal itself. Proprietary information submitted in response to a request will be handled in accordance with applicable State of Wisconsin procurement regulations and the Wisconsin public records law. Proprietary restrictions normally are not accepted. However, when accepted, it is the vendor's responsibility to defend the determination in the event of an appeal or litigation.
- 27.1** Data contained in a bid/proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the State of Wisconsin.
- 27.2** Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in s. 19.36(5), Wis. Stats., or material which can be kept confidential under the Wisconsin public records law, must be identified on a Designation of Confidential and Proprietary Information form (DOA-3027). Bidders/proposers may request the form if it is not part of the Request for Bid/Request for Proposal package. Bid/proposal prices cannot be held confidential.
- 28.0 DISCLOSURE:** If a state public official (s. 19.42, Wis. Stats.), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a ten percent (10%) interest, is a party to this agreement, and if this agreement involves payment of more than three thousand dollars (\$3,000) within a twelve (12) month period, this contract is voidable by the state unless appropriate disclosure is made according to s. 19.45(6), Wis. Stats., before signing the contract. Disclosure must be made to the State of Wisconsin Ethics Board, 44 East Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608-266-8123).
- State classified and former employees and certain University of Wisconsin faculty/staff are subject to separate disclosure requirements, s. 16.417, Wis. Stats.
- 29.0 RECYCLED MATERIALS:** The State of Wisconsin is required to purchase products incorporating recycled materials whenever technically and economically feasible. Bidders are encouraged to bid products with recycled content which meet specifications.

- 30.0 MATERIAL SAFETY DATA SHEET:** If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, provide one (1) copy of a Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).
- 31.0 PROMOTIONAL ADVERTISING / NEWS RELEASES:** Reference to or use of the State of Wisconsin, any of its departments, agencies or other subunits, or any state official or employee for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the State of Wisconsin. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the contracting agency.
- 32.0 HOLD HARMLESS:** The contractor will indemnify and save harmless the State of Wisconsin and all of its officers, agents and employees from all suits, actions, or claims of any character brought for or on account of any injuries or damages received by any persons or property resulting from the operations of the contractor, or of any of its contractors, in prosecuting work under this agreement.
- 33.0 FOREIGN CORPORATION:** A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Chapter 180, Wis. Stats., relating to a foreign corporation and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority. Any foreign corporation which desires to apply for a certificate of authority should contact the Department of Financial Institutions, Division of Corporation, P. O. Box 7846, Madison, WI 53707-7846; telephone (608) 261-7577.
- 34.0 WORK CENTER PROGRAM:** The successful bidder/proposer shall agree to implement processes that allow the State agencies, including the University of Wisconsin System, to satisfy the State's obligation to purchase goods and services produced by work centers certified under the State Use Law, s.16.752, Wis. Stat. This shall result in requiring the successful bidder/proposer to include products provided by work centers in its catalog for State agencies and campuses or to block the sale of comparable items to State agencies and campuses.
- 35.0 FORCE MAJEURE:** Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

**NOTE: THIS EXHIBIT IS NO LONGER NECESSARY
BASED ON CHANGES TO ITEM 4.3 OF THE REVISED
CONTRACT**

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EXHIBIT B

**EXTENDED CONTRACT FOR STATEWIDE STRUCTURAL
COLLAPSE TEAM MEMBERS**

TRAINING COSTS
Calendar Years 2017 and 2018

NAME OF CONTRACTOR: City of XXXX, WI

TOTAL NUMBER OF TEAM MEMBERS PROVIDED: XX

TRAINING COSTS CALCULATED AS:

Number of team members provided: XX

Required minimum hours of training per annum: 32 hours

Hourly training cost: \$45 per hour

<u>XX</u>	X	<u>32</u>	X	<u>\$45.00</u>	=	<u>\$XXXXXX</u>
(# members)		(Training hours)		(Hourly cost)		Total

ANNUAL TRAINING COSTS \$XXXXXX

Attachment: MARKUPS AND REVISIONS 2017-2018 (1234 : Structural Collapse Contract)